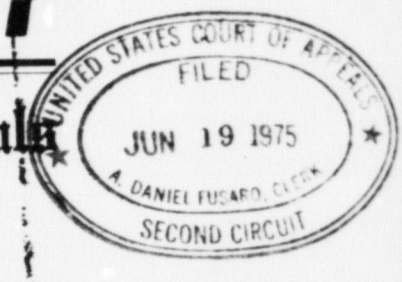
United States Court of Appeals

for the Second Circuit

APPENDIX

(42178)

75-7297



United States Court of Appeals

For the Second Circuit

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, *et al.*,
Plaintiffs-Appellees,

against

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14, BOARD OF EDUCATION OF THE CITY OF NEW YORK and IRVING ANKER, as Chancellor
Defendants-Appellants,

and

TERREL H. BELL, Commissioner of the United States Office of Education,
Defendant.

On Appeal from Judgment and Order of the United States District Court for the Eastern District of New York

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JOINT APPENDIX

VOLUME II OF TWO VOLUMES

(Pages JA314 to JA612)

W. BERNARD RICHLAND,
Corporation Counsel,
Attorney for Defendants-Appellants
Board of Education and Irving Anker,
Municipal Building,
New York, New York 10007.
566-4510

IRA S. BEZOZA, Esq.,
PATRICIA VERGATA,
Williamsburg Legal Services,
260 Broadway,
Brooklyn, New York 11211.
782-6195

KENNETH KIMERLING, Esq.,
HERBERT TEITELBAUM,
Puerto Rican Legal Defense Fund,
95 Madison Avenue,
New York, New York 10016,
532-8470

Attorneys for Plaintiffs-Appellees.

PAGINATION AS IN ORIGINAL COPY

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Responses of Defendants to Plaintiffs' Second Interrogatories

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------x

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, et al.,

Defendants.

RESPONSES OF DEFENDANTS COMMUNITY SCHOOL BOARD #14 AND THE MEMBERS THEREOF, AND WILLIAM ROGERS TO PLAINTIFFS' SECOND INTERROGATORIES

74 Civ 783
(J.B.W.)

----------x

Defendants Community School Baord #14 and the Members thereof, and William Rogers, by their attorney, W. BERNARD RICHLAND, as and for their responses to plaintiffs' second interrogatories, respectfully allege as follows:

1. Q. List every parochial school located in Community School District No. 14 and indicate with respect to each such parochial school:

(a) the official name;

(b) the street address;

(c) the religious faith;

(d) the principal's name and telephone number;

(e) the official student enrollment capacity;

(f) the total student enrollment for the 1974-1975 school year;

(g) the number of grades and classes in each grade; and

(h) the needs assessment of each school compiled for the 1974-1975 Title VII grant.

A. a) Please refer to Exhibit "A" annexed hereto.

b) Any street addresses not listed in Exhibit "A" may be found in the Brooklyn Telephone Directory, 1974-75.

c) Please refer to Exhibit "A".

d) Please refer to Exhibit "A".

e) Please refer to Exhibit "A".

f) Please refer to Exhibit "A".

g) Please refer to Exhibit "A".

h) Please refer to Exhibits "A" and "B".

2. Q. Indicate for the enrollment figure and needs assessment for United Talmudical Academy listed in response to Interrogatory 1 whether these figures apply to a single school building or to more than one school building under the auspices of the United Talmudical Academy, and if so list for each such school building:

a) the official name;

b) the street address; and

c) the student enrollment.

A. More than one school building

a) United Talmudical Academy

b) unknown to defendants

c) Please refer to Exhibit "A".

3. Q. Indicate for the enrollment figure and needs assessment for Beth Rachel School for Girls listed in response to Interrogatory 1 whether these figures apply to a single school building or to more than one school building under the auspices of the Beth Rachel School for Girls, and if so list for each such school building:

a) the official name;

b) the street address; and

c) the student enrollment.

A. More than one school building

a) Beth Rachel

b) unknown to defendants

c) Please refer to Exhibit "A".

4. With respect to each needs assessment listed in response to Interrogatory I indicate the source of data and the means by which it was obtained:

a) describing in detail all criteria applied;

b) describing in detail all procedures utilized, listing;

(i) type of procedure used;

(ii) name, title and language competence of person utilizing the procedure; and

(iii) the date and place such procedure was utilized.

c) setting forth the names, titles where applicable, and addresses of any persons, agencies or organizations that participated in any way in the development, formulation or implementation of the criteria and proceeding used.

A. a) Please refer to Exhibit "B" annexed hereto.

b) (i) The Language Data Survey utilized by The Board of Education.

(ii) Rabbi Frankel , for the Hebrew Day Schools, fluent in Hebrew, Yiddish and English, February, 1974; Sr. Pelippa, for the Roman Catholic Schools, February 1974.

(iii) United Talmudical, Beth Rachel; Our Savior, Sts Peter and Paul, February, 1974

c) Board of Education of the City of New York.
Office of Bilingual Education
110 Livingston Street
Brooklyn, N.Y.

Director: Herman LaFontaine

5. Identify all documents which describe:

a) the needs assessments listed in response to Interrogatory I (h);

b) correspondence, memoranda and other documents exchanged between the defendants and any persons, agencies or organizations listed in response to Interrogatory 4(c); and

c) the data used in compiling each needs assessment listed in response to Interrogatory 1(h).

A. a) Please refer to Exhibit "A" and "B".

b) The model for Language Data Survey employed by the District was provided by the Board of Education.

c) Please refer to Exhibits "A" and "B".

6. Q. Identify each conversation, meeting or conference of any sort in which any of the defendants, their employees, agents or representatives, or agents or representatives of any of the parochial schools listed in response to Interrogatory I, did participate, which conversation, meeting or conference related in any way, to the development of formulation or implementation of the criteria and procedures applied in determining the needs assessment of the parochial schools for the 1974-1975 Title VII grant, and as to each such conversation, meeting or conference:

a) list the date and location of, and the names, addresses and title of the participants thereof;

b) describe in detail the specific subject matter, purpose and outcomes of each such conversation meeting or conference, and

c) identity all documents relating to each such conversation, meeting or conference, including all minutes or memoranda or documents produced as a result of each such conversation, meeting or conference.

A. a) For the Hebrew Day Schools:

Meetings were held at the District Office between December 1973 and February 1974. Participating in these meetings were Rabbi Frankel, (c/o United Talmudical Academy) Needs Assessment Coordinator, representing the Hebrew Day Schools and Norman Spiegel, Director of Reimbursable Programs and Jeffrey Feingold, Coordinator of Reimbursable Programs (c/o District Office CSB 14).

For the Parochial Schools

Meetings were held at the District Office and at St. Cecilia RC School between December 1973 and February, 1974. Participating in these meetings were Sister Felippa and Brother Gregory, representatives of the Parochial Schools and Norman Spiegel and Jeffrey Feingold, District Representatives.

b) At the first meeting held with Rabbi Frankel during the week between Christmas and New Year's 1973, the Rabbi indicated that the Hebrew Day Schools desired participation in the Districts Title VII project and requested information concerning filing an application for same. Accordingly, the Director of Reimbursable programs reviewed with the Rabbi the Federal Regulations, the Language Data Survey, application data including poverty factors and needs assessment. This orientation meeting concluded with the Rabbis assurance that he would comply with the regulations and additionally compile a Language Data Survey.

G. For the Roman Catholic Parochial Schools

b) Meetings were had between Sister Felippa , representative for the Roman Catholic parochial schools and Norman Spiegel and Jeffrey Feingold (see above) for the District during the period January 1974 - February 1974 with respect to the 1974-5 Title VII program.

Since Sister Felippa had coordinated the participation of the parochial schools in Title I and III programs she was familiar with many of the Title VII requirements. However, at the above-mentioned meetings, the District particularly apprised Sr. Fellippa of the applicable federal regulations and the requirement of compiling needs assessment data through the utilization of the Language Data Survey. Additionally, Sr. Felippa engaged in frequent conversation with Mr. Feingold with respect to filing the Title VII application. On February 6, 1974 Sr. Felippa attended a meeting of Non Public School Principals held at the District Office called to discuss reimbursable programs, including Title VII.

c) None.

Thereafter, meetings were had between Rabbi Frankel and the District Coordinators of the Title VII Program on a average of three times a week. The substance of which were as follows: description of Yiddish English language materials, preparation of the application, advisory committee, language data survey and general discussion of the Title VII program.

c) None.

7. Q. If any data for any needs assessment listed in response to Interrogatory 1 was obtain or compiled by any persons other than defendants or their employees, indicate whether defendants evaluated the reliability and/or validity of such data and if so describe in detail any such evaluation:

a) listing name, title and address of any persons conducting such evaluation;
b) describing the results of any such evaluation; and
c) identifying any documents relating to any such evaluations.

A. Yes. The District received assurances from Rabbi Frankel that the Language Data Survey used in the public schools had been employed in determining the need assessment for the United Talmudical Academy and Beth Rachel (upon the later direction of HEW, the District required the Rabbi to conduct the Lanugage Data Survey in the Hebrew Day Schools) and that the Federal Regulations had been complied with fully. Based upon 20 years of experience working in the District 14 Community, as well as visits to the Hebrew Day School including Beth Rachel, the Director of Reimbursable Programs believed that the figures provided by the Rabbi were consistent with those anticipated by him.

The District received assurances from Sister Felippa that the Language Data Survey used in the public schools was used in the Roman Catholic parochial applicant schools, St Peter and St Pauland Our Savior, (upon the later direction of HEW, the District required that the language data survey be conducted in Roman Catholic Parochial Schools throughout the District), and that compliance with the federal regulations had been effected. In concluding that the figures provided by the Roman Catholic Parochial Schools were accurate the District relied upon the following factors: i) the assurance of compliance, ii) the fact that the population zone for Sts Peter and Paul is predominantly Hispanic iii) the Our Savior zone is the same as that for PS 122 and the Sts Peter and Paul zone corresponds to the PS 84 zone (96% Hispanic) iv) the director of reimbursable programs has visited the schools, spoken to the principal and staff members and observed a heavy concentration of english-language handicapped children. b) The District concluded that the figures provided by the non-public schools were valid and reliable.

c) None.

8. Q. Indicate whether, by whom, on what date and in what form any and/or all of the following information was submitted to the United States Office of Education:

a) any needs assessment listed in response to Interrogatory 1(h);

b) any data used in compiling any needs assessment listed in response to Interrogatory 5(c); and

c) any evaluation of needs assessment data listed in response to Interrogatory 7.

A. a) School District #14 submitted needs assessments for the non-public schools whose children were targetted to participate in the 1974-75 component of the District's five year program under Title VII in its grant application submitted February 19, 1974.

b) Please refer to Exhibit "A" and "B".

c) The results of such evaluation is contained in the Title VII application 1974-75, submitted February 19, 1974 (previously supplied to plaintiffs). Refer to defendants response to Interrogatory No. 7 above.

9. Q. If the form of submission of information listed in response in Interrogatory 8 differs in any respect from the documents describing such information previously listed in response to Interrogatories 5 and 7, identify such documents.

A. There is no difference except that upon the request of the Office of Education Exhibit "A" was submitted as part of the Title VII application

10. Q. State whether, by whom, on what date and in what form any needs assessment of children enrolled in defendant C.S.D. No. 14's public schools other than that submitted with the application for Title VII funds for 1974-75, at page seven thereof, was submitted to the United States Office of Education. If so, identify such document(s).

A. Please refer to answer to interrogatory, No 9. June 20, 1974

11. Q. Describe in detail the reasons for the non-inclusion of eligible parochial school children in C.S.D. No. 14 in applications for Title VII funds for each school year from 1969-70 through 1973-74.

A. Defendants object to Interrogatory 11 on the grounds that it is not germane to the issues presented in this suit, enlarges rather narrows the questions before the Court, and is otherwise irrelevant and immaterial.

12. Q. State whether any assessment of the needs of parochial school children was compiled for and/or included in any application for Title VII funds for any school year prior to 1974-75, and if so identify the documents containing such information.

A. No.

13. Q. State whether any conversations, meetings or conferences were held between defendants their employees, agents or representatives and representatives of parochial schools in Community School District No. 14 about inclusion of eligible parochial school children in applications for Title VII fund for any school prior to 1974-75, and if not

a) state the date and location of, and the names, addresses and titles of the participants in each such conversation, meeting or conference;

b) describe in detail the specific subject matter, purpose and outcome of each such conversation, meeting or conference; and

c) identify all documents relating to each such conversation, meeting or conference, including all minutes or memoranda or documents produced as a result of each such conversation, meeting or conference.

A. Defendants object to Interrogatory 11 on the grounds that it is not germane to the issues presented in this suit, enlarges rather narrows the questions before the Court, and is otherwise irrelevant and immaterial.

14. Q. Separately list the following information for the personnel employed in the Bilingual Early Childhood Center and paid with Title VII funds:

a) the names of teaching personnel, professional and non-professional;

b) their titles and/or positions;

c) the public or parochial school assigned;

d) their teachers' license held, if applicable; and

e) their prior educational employment, professional and/or non-professional since the 19701971 school year, if applicable, listing school and position held.

A. a) Defendants object to Interrogatory 14 on the grounds that it is not germane to the issues presented in the supplemental complaint, enlarges rather than narrows the questions before the Court, and is otherwise irrelevant and immaterial.

15. Q. Set forth the number of public school children by grade participating in the Bilingual Early Childhood Center for the school years 1970-1971 through 1973-1974.

A. Please refer to Exhibits "A" - "D" annexed to the affidavit of Norman Spiegel, sworn to the 24th day of February, 1975, and submitted in support of defendants' motion for summary judgment herein.

16. Q. Set forth the number of professional and non-professional personnel, by title, employed in the Bilingual Early Childhood Center for the school years 1970-1971 through 1973-1974.

A. Please refer to Exhibits "B" - "D" referred to in response to Interrogatory 15 above, as well as Exhibit "C", Personnel Distribution, 1970-71, annexed hereto.

17.Q. State the names, addresses and positions of the persons responsible for developing, formulating and writing:



a) the Yiddish-English component of the Title VII grant; and

b) the parochial section of the Spanish-English component of the Title VII grant.

A. a) Rabbi Frankel, Principal
c/o United Talmudical Academy
545 Bedford Avenue
Brooklyn, New York 11211

b) Sister Felippa Anne Luciano
250 Hooper Street
Brooklyn, New York 11211
Principal of Our Savior R.C. School

18.Q. Identify each conversation, meeting or conference of any sort among any of the defendants, their employees, agents or representatives and/or between the defendants, their employees, agents or representatives and employees, agents or representatives of the parochial schools participating in the Bilingual Early Childhood Center, which conversation, meeting or conference related in any way to the development or formulation of the program design of the Yiddish-English component or the parochial section of the Spanish-English component of the 1974-1975 Title VII grant, and as to each such conversation, meeting or conference:

a) list the date and location of, and the names, addresses and titles of the participants in each such conversation, meeting or conference; and

b) describe in detail the specific subject matter, purpose and outcome of each such conversation, meeting or conference; and

c) identify all documents relating to each such conversation, meeting or conference, including all minutes or memoranda or documents produced as a result of each such conversation, meeting or conference.

A. See response to Interrogatory 6 above.

19. Set forth detailed information regarding the approval of the Spanish-English component of the 1974-1975 Title VII grant by the community advisory committee, indicating:

(a) the names and addresses, dominant language and the child's school attended of each member of the community advisory committee;

(b) the dates and the locations of each meeting or conference attended by the community advisory committee, including all meetings between the community advisory committee and the defendants, their employees, agents or representatives;

(c) describe in detail the specific subject matter, purpose and outcome of each such conference or meeting listed in response to Interrogatory 19 (b); and

(d) identify all documents relating to each such meeting or conference, including all minutes or memoranda or documents produced as a result of each such meeting or conference;

(e) if not already stated, the date, location and names of members attending any meeting or conference at which the Title VII grant was approved by the community advisory committee; and

(f) the date of the public meeting at which the Community School Board approved the establishment of such committee.

A. The information requested is presently unavailable. As soon as the defendants gather this information, it will be submitted to the plaintiffs.

20. Q. Set forth detailed information regarding the approval of the Yiddish-English component of the 1974-1975 Title VII grant by the community advisory committee, indicating:

(a) the name and addresses, dominant language and the child's school attended of each member of the community advisory committee;

(b) the dates and the location of each meeting or conference attended by the community advisory committee, including all meetings between the community advisory committee and the defendants, their employees, agents or representatives;

(c) describe in detail the specific subject matter, purpose and outcome of each such conference or meeting listed in response to Interrogatory 19(b); and

(d) identify all documents relating to each such meeting or conference, including all minutes or memoranda or documents produced as a result of each such meeting or conference;

(e) if not already stated, the date, location and names of members attending any meeting or conference at which the Title VII grant was approved by the community advisory committee; and

(f) the date of the public meeting at which the Community School Board approved the establishment of such committee.

A. a) Please refer to exhibit "J" annexed to affidavit of Norman Spiegel, sworn to the 24th day of February, 1975, submitted in support of defendants'

motion for summary judgment herein. Yiddish, United Talmudical Academy and Beth Rachel.

b) 12/12/73, 1/22/74
5/2/74, 9/2/74

c) refer to "D"

d) refer to "D"

e) February 18, 1974, please refer to (a) above

f) The Community School Board did not approve it at a formal public meeting.

21.Q.Set forth the names, addresses, titles where applicable child's school attended and dominant language of members of any advisory committee or group that defendants have consulted with on, or submitted to, Title VII applications for the 1970-1971 through 1973-1974 school years.

A. Defendants object to interrogatory 21 on the grounds that it is not germane to the issues presented in the supplemental complaint, enlarges rather than narrows the questions before the Court and is otherwise irrelevant, burdensome and immaterial.

22. Q. Have the two community advisory committees described in response to Interrogatories 19 and 20 been consolidated into a single community advisory committee? If so, state

(a) the names, addresses, dominant language, child's school attended of each member of the single community advisory committee;

(b) the process by which the members of such committee were chosen and the dates thereof;

(c) the name and date of the newspaper of general circulation in which the names and addresses of committee members and the purpose of such committee was published;

(d) the date of the public meeting at which the Community School Board approved the establishment of such committee; and

(e) the dates, times and locations participants attending and outcome of any monthly public meetings held by such committee.

A. Yes

a) Mrs. Lillian Wojnowski — Our Savior
6 Harrison Ave — "
Mrs. Rose Echavarria
122 Throop Ave — "
Mrs. Julia Cruz - N/A — " — Herodira Martinez assisted by Miss Torres
126 Lee Ave
Mrs. Harold Klagsbald — Hebrew Day School
172 Rutledge STreet — Hebrew Day School
Mr. Abe Wojowitz — "
153 Wilson St
Mr. Solomon Feder — "
195 Penn St.
Mr. Alexander Friedman — "
71 Lee Ave
Lydia Rodriquez
266 Keap St. — P.S. 122
Minerva Rodriguez
229 Lee Ave — "
Jaime Torres
132 Wallabout St. — "
Herodita Rabsatt
371 Marcy Ave — "
Lilian Ramirez
25 Boerum St. — "
Lydia Rodriquez
706 Bedford Ave — "
Iluminada Padilla
25 Boerum — "
Lucila Sanchez
2.[illegible] Division Ave — "
Arlene Velez
197 Penn St. — "
Olga Durand
339 So. 5th St. — "

b) We contacted principals of affected schools asking them to consult with parents concerning the formulation of a parents advisory committee. We requested the participation of parents of children

who would be eligible to participate in the Title VII program. The principals spoke with parents and submitted a list of names of interested parents.

c) None.

d) The Community School Board did not approve it a formal public meeting.

e) The Parents Advisory Committee met on March 6, 1975, 10 am at PS 122 pursuant to written notification of March 3, 1975. For participants see response to (a) above.

23.Q. Identify each conversation, meeting or conference of any sort in which any of the defendants, their employees, agents or representatives and the employees, agents or representatives of the United States Office of Education, did participate, which conversation, meeting or conference related in any way to the development, formulation, revision, approval, adoption or implementation of any aspect of the 1974-1975 Title VII grant, and as to each such conversation, meeting or conference:

(a) list the date and location of, and the names, addresses and titles of the participants in each such conversation, meeting or conference;

(b) describe in detail the specific subject matter, purpose and outcome of each such conversation, meeting or conference;

(c) describe in detail any action taken by any of the defendants, their employees, agents or representatives as a result of each such conversation, meeting or conference; and

(d) identify all documents relating to each such conversation, meeting or conference, including all minutes or memoranda or documents produced as a result of each conversation, meeting or conference.

A. a) Three formal meetings were held between representatives of the Community School Board and representatives of the Office of Education (HEW): 2/5/74 at District Offices. Elizabeth Kessee, Project Officer, Office of Education, Luis Catarineau, Office of Education, met with Norman Spiegel, Director of Re-imbursable Programs, Jeffrey Feingold, Coordinator of Re-Imbursable Programs.

Kobbe
Lehrer
David Rosenberg

b) This meeting was held to discuss the proposed Yiddish-English component of the 1974-75 Title VII application with respect to the feasibility of the proposal and compliance with federal regulations. 6/19/74 - Office of Education, Washington, D.C., John Molina, Director of the Office of Bilingual Education Office of Education (HEW) Elizabeth Kessee (see above) and two staff attorneys for the Office of Education and Norman Spiegel and Jeffrey Feingold (see above). This meeting was held to discuss the total monetary amount of the Districts proposal, compliance with the federal regulations with particular emphasis on those relating to parochial school participation in such a project. The Office of Education requested

assurances from the District representatives that the parochial school participation would be in compliance with the regulations and additionally requested a more extensive language data survey for the non public schools than had previously been submitted.

6/28/74 - Office of Education, Washington, D.C., Elizabeth Kessee, (see above) and two attorneys from General Counsel Office, HEW, Norman Spiegel and Jeffrey Feingold (See above).

This meeting was held to further discuss the assurances requested by the Office of Education on June 19, 1974. Particular emphasis was placed upon compliance withthe rules and regulations concerning the participation of non public schools in a Title VII program. The District was advised that it had the responsibility to monitor the Title VII program as well as administer the expenditure of the Title VII allocation.

c) The District provided to the Office of Education, as per its request, during the first week of July 1974, the expanded District Language Data Survey for the non public schools, a series of assurances, as well as tentative Title VII personnel assignments.

d) Please refer to Exhibits "E" and "F" as well as the Title VII Application 1974-1975 previously submitted to plaintiffs.

24. Identify all documents including but not limited to all correspondence or memoranda any part of which relates in any way to the application for Title VII funds for the 1974-75, school year exchanged between defendants, the ir employees, agents or representatives and the United States Office of Education, their employees, agents or representatives.

A. See Exhibits E, F, and G and the Title VII, 1974-75 grant application.

25. Identify each conversation, meeting or conference of any sort in which any of the defendants, their employees, agents or representatives and any employees, agents or representat. of the United States Office of Education did participate, which conversation, meeting or conference related in an y way to the development, or formulation, of any aspect of the application for Title VII funds for the 1975-76 school year and as to each such conversation, meeting or conference:

(a) List the date and location of, and the names, addresses and titles of the participants in each suc h conversation, meeting or conference;

(b) describe in detail the specific subject matter purpose and outcome of each such conversation, meeting or conference;

(c) describe in detail any action takenby any of the defendants, their employees,agents or representatives as a result of each such such conversation, meeting or conference; and

(d) identify all documents relating to each such conversation, meeting or conference, including all minutes or memoranda or documents produced as a result of each conversation, meeting or conference.

A. Defendants object to interrogatory 25 on the grounds that it is not germane to the issues presented in the

supplemental complaint, enlarges rather than narrows the questions before the Court, and is otherwise irrelevant, burdensome and immaterial.

26. Identify all correspondence, memoranda or documents any part of which relates in any way to the formulation or development of the application for Title VII funds for the 1975-76 school years exchanged among the defendants, their employees, agents or representatives and or between defendants, their employees, agents or representatives and the employees, agents or representatives of the United States Office of Education.

A. See objection raised to interrogatory 25 above.

27. State whether defendants have taken any steps to assure that personnel employed in the Bilingual Early Childhood Center do not teach or instruct religious subject matter. If so, describe in detail the steps that have been taken indicating the name, address and title of each person responsible for assuring that personnel employed in the Bilingual Early Childhood Center do not teach or instruct religious subject matter.

A. Robert Moll, Acting Title VII Project Director visits the non-public schools every other week. Jeffrey Feingold, Coordinator of the Reimbursable Programs visits the non public schools.

Yours, etc.,

W. Bernard Richland
Corporation Counsel
Municipal Building
New York, New York

Dated: March 7, 1975

ADDENDUM: Defendants will respond to any interrogatory not answered herein nor objected to, when that information becomes available.

OFFICE OF REIMBURSABLE PROGRAMS
SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

JA 336

DISTRICT 14's NON-PUBLIC SCHOOLS

LANGUAGE DATA SURVEY

SCHOOL	TOTAL ENROLLMENT	NON-ENGLISH DOMINANT	% NON-ENGLISH DOMINANT
All Saints	400	152	38
Saint Alphonsus	265	60	22
Saint Anthony	627	37	5
Saint Cecilia	750	95	13
Saints Cyril and Methodius	314	20	6
Saint Francis of Paola	307	11	3
Immaculate Conception	314	111	35
Most Holy Trinity	366	241	65
Saint Nicholas	278	133	47
Our Lady of Consolation	245	70	28
Our Lady of Mount Carmel	377	333	88
Our Lady of Bedford-Stuyvesant W.	562	289	51
Saints Peter and Paul	298	135	46
Saint Stanislaus	905	289	31
Our Saviour	611	423	69
Saint Vincent de Paul	292	88	30
TOTALS	6,911	2,491	36

"A"

OFFICE OF REIMBURSABLE PROGRAMS
SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

DISTRICT FOURTEEN'S HEBREW DAY SCHOOL
LANGUAGE DATA SURVEY

SCHOOL	TOTAL ENROLLMENT	TOTAL NON-ENGLISH DOMINANT	PERCENTAGE OF N-E/DOMINANT
Yeshiva Arugath Habosem	260	208	80%
Ahavas Yisroel-Yeshiva	420	315	75%
Yeshiva Beth Yeshaya	110	105	75%
Yeshiva Benai Mordechai	80	72	90%
Beth Jacob H.S.	450	135	30%
Beth Jacob Elementary	210	73	35%
Bnos Yaakov	750	525	70%
Yeshiva Belz	250	213	85%
Bnos Yerusalem	80	60	75%
Yeshiva Benai Yesoscher	100	95	95%
Yeshiva Minchas Eleiezer	120	96	80%
Yeshiva Kehilath Yaakov	600	510	85%
Yeshiva Nesivath Olem	140	77	55%
Yeshiva of Paya	150	135	90%
Yeshiva Torah Vodaath	180	63	35%
Yeshiva Sherath Hapleita	220	154	70%
Beth Chana	180	126	79%
Yeshiva Shaar Hatorah	85	77	90%
Yeshiva Darkei Tshuva	90	72	80%

"A"

OFFICE OF REIMBURSABLE PROGRAMS
SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

Continued:

DISTRICT FOURTEEN'S HEBREW DAY SCHOOL
LANGUAGE DATA SURVEY

SCHOOL	TOTAL ENROLLMENT	TOTAL NON-ENGLISH DOMINANT	PERCENTAGE OF N-E DOMINANT
Yeshiva Shomrei Hadas Dekashoc	210	178	85%
Yeshiva Tzemach David	150	135	90%
Yeshiva Yesoda Hatorah	320	176	55%
Yeshiva Nachlas Yaakov	400	200	50%
Adaas Yeriam	350	140	40%
Yeshiva Ahavas Torah	110	88	80%
Beth Rachel	2,025	1,418	70%
United Talmudical Academy	3,055	2,444	80%
TOTALS	11,095	7,890	71%

"A"

DIRECTORY OF NON-PUBLIC SCHOOLS 1973-74

Roman Catholic Schools - Diocese of Brooklyn

SCHOOL	ADDRESS		PRINCIPAL	GRADE	TELE
All Saints Elementary	58 Whipple St.,	11206	Sis. Loretta Ferris	1-8	782
Immaculate Conception	187 Leonard St.,	11206	Sis. Anne Maureen	1-8	387
Most Holy Trinity Elementary	140 Montrose Ave.,	11206	Sis. Marjorie Devlin	K-8	384
Our Lady of Consolation	139 North 1st St.,	11211	Sis. Mary Amandine	1-8	384
Our Lady of Mt. Carmel	10 Withers St.,	11211	Sis. Mary Sivillo	K-8	387
Our Lady of Bedford-Stuyvesant W.	918 Kent Ave.,	11205	Sis. Elizabeth Folles	1-8	622
Our Saviour School	250 Hooper St.,	11211	Sis. Filippa	1-8	388
St. Alphonsus	176 Java St.,	11222	Sis. Agnes M. Barry	1-8	389
St. Cecilia	1-15 Monitor St.,	11222	Sis. Miriam Daniels	1-8	389
St. Nicholas	287 Powers St.,	11211	Sis. Diane Kirwan	1-8	388
Sts. Peter and Paul	288 Berry St.,	11211	Sis. Thomasine	1-8	387
St. Stanislaus Kosta	10 Newell St.,	11222	Sis. Berchmans	K-8	383
St. Vincent De Paul	180 North 7th St.,	11211	Sis. Francis Bernadette	K-8	384

Hebrew Day Schools

Beth Rachel

Bais Yaakov Dkhal Adas Yereim	563 Bedford Ave.,	11211	Rabbi Grossman	1-9	782
Beth Chana	204 Keap St.,	11211	Mrs. Miriam Friedman	1-10	388
Beth Chana High School	187 Hooper St.,	11211		8-12	
Beth Jacob Elem. School	280 Rodney St.,	11211	Mrs. Yanofsky	K-8	
Beth Jacob High School	143 South 8th St.,	11211	Dr. Yanofsky	9-12	384
United Talmudical Academy	545 Bedford Ave.,	11211	Rabbi Frankel	K-8	
Yeshiva Ahavas Israel	6 Lee Ave., Brooklyn	11211	Rabbi Lichtenstien	K-8	388
Yeshiva Arugath Habosem	171-3 Hooper St.,	11211	Rabbi Rosner	1-11	388
Yeshiva Jesoda Hatorah	505 Bedford Ave.,	11211	Mr. Isaac Fink	1-8	384
Yeshiva Kehilath Yakov	638 Bedford Ave.,	11211	Rabbi Eisenberg	1-8	355
Yeshiva Machzekei Torah of Belz	630 Bedford Ave.,	11211	Rabbi Landow	K-9	855
Yeshiva Torah Vodaath	206 Wilson St.,	11211	Rabbi Cogan	1-8	387
Beth Yitchok D'Spinka	192 Keap St.		Rabb. Barowitz	K-9	387

Lutheran Schools

St. John the Evangelist	195 Maujer St.,	11206	Mr. David Dobosz	5-8	963

Ukrainian Catholic and All Other Denominations

Holy Ghost Ukrainian Catholic	160 North 5th St.,	11211	Mrs. Lydia Lewyckyj		782

St. Mary's

PROJECT SUMMARY AND NEEDS ASSESSMENT

The proposed pre-kindergarten through first grade Yiddish-English bilingual program is intended to service nonpublic school children residing and attending school in the District Fourteen Williamsburg-Greenpoint section of Brooklyn New York City. District Fourteen is a Title VII eligible district.

Between World Wars I and II, Williamsburg began to attract Orthodox Jews, especially those who meant to perpetuate Orthodoxy on American soil. After World War II, the area received a massive influx of new ultra-orthodox Jewish immigrants, remnants primarily of eastern Hungarian communities destroyed by the Germans and their allies. Dominant among the postwar immigrants were the Hasidim, bearers of a distinct subculture which originated among eighteenth-century East European Jews.[1]

Today, approximately fifty thousand Hasidim have made the Williamsburg section their home. Yiddish has been and continues to be the dominant language used for daily communication. The vast majority of youngsters entering school at age four are proficient only in Yiddish as this is the language spoken exclusively at home and in other Hasidic institutions as well. Having recognized the importance of having Hasidic youngsters exposed to and taught the dominant language of American society has become a major objective of the Hasidic educational community. This proposal clearly demonstrates the intention of the Hasidic community to produce future generations of bilingual individuals so as to facilitate communications with members of American society of diverse educational and cultural background.

The United Talmudical Academy and Beth Rachel have been selected as the sites for this program. These schools will furnish the necessary facilities for implementation.

A total of seven hundred and sixty children have been targeted to participate. Four hundred of these youngsters are from Beth Rachel, three hundred and sixty from United Talmudical Academy. Eighty-five percent of the targeted group have been selected because of their dominance in the Yiddish Language.

Several factors have been taken into consideration during the course of the selection process for program participants. These factors included competency in oral English skill[2], language dominance, socioeconomic background, educational deficiencies and home environment.

These criteria were determined through questioning the prospective participant's parents, oral interviews with the children conducted by a bilingual program committee and teacher recommendations.

1. Israel Kubin, Satmar: An Island In the City. Pages 3-4

See table A-Language Skills Data, Page 7.

An examination of the reading and mathematics scores for the two schools to participate in this project indicates that a high percentage of pupils currently enrolled in grade three are functioning far below grade level. This was determined on the basis of the results of the Pupil Evaluation Program Tests administered in November, 1973.[3] These scores clearly demonstrate the need for a program of remediation. When one considers the data presented in Tables A and B, it becomes clear that the existence of an early childhood Yiddish-English bilingual program could make a significant difference in the future educational development of the children targeted for this project.

Despite the cohesive nature of Hasidic family life and the deep-seated commitment to educational achievement, an inordinate number of Hasidic children drop out before graduation from high school. Widespread language deficiencies appear to be a major cause of this phenomenon.

Project components will include (1) the instructional program, (2) community and parental involvement (3) materials and curriculum development, and (4) staff development.

The major emphasis of the proposed bilingual program will be in developing skills in the dominant and second language through the presentation of a carefully planned and well balanced curriculum in several of the most crucial areas. Curriculum areas include Reading, Language Arts, Mathematics, Social Studies, Cultural Enrichment and Appreciation, Music, Dance and Physical Education.

Instruction in curriculum areas other than English and Yiddish Reading and Language Arts will be conducted bilingually by both teachers and paraprofessionals in order to provide the students with a workable understanding of concepts and for the purpose of maintaining a classroom atmosphere comfortable enough for all participating students. The school day has been designed to allow for the normal flow of communication in mixed and small group settings.

It is intended that the children who participate in the project will master the listening, speaking, reading and writing skills in both English and Yiddish to the extent that they will perform at or above grade level at the end of the primary grades.

Another important goal of the instructional program is the development of pride in the children's mother tongue and the culture which it represents. An understanding and pride in Yiddish culture should be reflected in a positive self-image.

Bilingual Family Workers and Family Assistants will provide special services to parents both in and out of school. During school hours they will meet with parents in a Family Room provided for the purpose of discussing the bilingual program and to assist parents with their problems and offer possible solutions.

3. See Table B - Pupil Evaluation Program Reading and Mathematics Scores (Grade 3)

Through its involvement in the program, it is hoped that the community-at-large and the parents of the children directly involved, will become increasingly willing to participate in similar programs and projects which relate to the bilingual aspects of their children's education. It is also hoped that this involvement will prompt the creation of and enrollment in bilingual adult-education classes.

Another primary objective of this program will be the further development of suitable bilingual Yiddish materials. The need for materials of this kind is acute inasfar as this is a "first of its kind" project, and thus materials of this nature are, by and large, non-existent.

As teachers and paraprofessionals participate in the program and attend university level courses designed to increase skills related to bilingual education, they should demonstrate increased professional competence and provide innovative initiatives in the Yiddish-English bilingual program.

In conclusion, this proposed pilot project aims, on a limited scale, to fulfill the needs of a small percentage of children of the Hasidic Community. It does, however represent a significant breakthrough in educational philosophy. In so doing it will serve as a starting point for a number of children that might otherwise experience many of the difficulties and disappointments encountered by so many members of preceeding generations.

[illegible] - TITLE VII PROJECT SUMMARY FOR PROJECT

[illegible] OF TOTAL ESTIMATED BUDGET FOR PROJECT

SOURCE	PROJECT YEAR 1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year
a. Title VII Funds	150,000					
b. [illegible] Local Funds	140,000					
c. [illegible]						
d. State Funds	10,500					
e. Other Funds						
f. Total Estimated Budget	300,500					

[illegible] C - TOTAL PROJECT PARTICIPANTS

(See Instructions on Page 110)

Student Population Data		Pre-K	K	1	2	3	Other Elemen.	Second-ary	Total
Total ADA* of LEA** for preceding school year XX	Public (1) School	740	2400						
	Nonpublic (2) School	0	0						
Number of children in LEA whose dominant language is not English	Public (1) School	565	1835						
	Nonpublic (2) School	0	0						
[illegible] of project area for preceding school year	Public (1)	60	200						
	Nonpublic (2)	0	0						
Number of children in project area whose dominant language is not English	Public (1)	48	160						
	Nonpublic (2)	0	0						
Number of children in project area whose dominant language is not English who would partici[illegible] in project	Public (1)	24	32						
	Nonpublic (2)	0	0						
Number of children in project area whose dominant language is English who would participate in the project	Public (1)	10	18						
	Nonpublic (2)	0	0						
Total number of children in project area who would partici-pate in project (Add e and f)	Public (e(1) + f(1))	30	50						
	Nonpub. (e(2) + f(2))	--	--						
	Total (e(1) + e(2))	30	50						

*ADA: The aggregate of the daily membership for the school year divided by actual days school was in session

**LEA: Local Educational Agency

Non-public schools will not participate during the first year since there are [illegible] pre-K and K components in the project area. However, Non-public school teachers will [illegible] in the training program.

SECTION C - TOTAL PROJECT PARTICIPANTS (Continued)

2. Additional Project Data (See instructions on page 111)

a.	Total student participation (Total Clg)	Number	80
b.	Staff engaged in inservice training	Number	6
c.	Adults	Number	80 xx
d.	Total number of project participants (a through c)	Number	166
	Percent of "a. Total student participation" whose dominant language is not English and who come from low-income families	Percent	65
f.	Projected per-pupil cost	Cost	$1,875/pupi
g.	Estimated percentage of target group which is:		
	Rural (fewer than 2500 inhabitants)	Percent	0
	Urban (2500 or more inhabitants)	Percent	100
h.	Estimated percentage of children from migrant families	Percent	0
i.	Dominant Language(s) other than English		SPANISH

xx Each child's parent or guardian will participate in the project.

SECTION D - PARTICIPATING SCHOOLS (See instructions on page 112)

Names of Participating Schools	Location of Schools	Grade Level(s)	Participation (Number)	
			Classes	Students per Grade Level
P.S. 122	68 Harrison Avenue Brooklyn, N.Y.	Pre-K	1	30
		K	2	50

SECTION E - TOTAL BILINGUAL PROGRAM STAFF (Instructions on page 112)

POSITION CATEGORY	Positions Assigned to Project: Number Full-Time	Part-Time: Number	Part-Time: Full-Time Equiv.	Total Full-Time Equiv. (Colums 2 + 4)
(1)	(2)	(3)	(4)	(5)
1. ADMINISTRATION/ SUPERVISION	1	5	.12	1.12
2. TEACHER				
(a) Pre-Kindergarten	1			
(b) Kindergarten	2			
(c) Grades 1-6				
(d) Grades 7-12				
(e) Other E.S.L. Teacher	1			4.00
3. SPECIALISTS				
4. PUPIL PERSONNEL WORKERS Fam. Ass't Fam. Wkr.	2			2.00
5. EVALUATORS (contract)	2			2.00
6. TEACHER ASSISTANTS, TEACHER AIDES	3			3.00
7. COMMUNITY LIAISONS	2			2.00
8. CLERICAL PERSONNEL	1			1.00
9. ALL OTHER PERSONNEL Aide	1			1.00

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

PART III PROPOSED BUDGET SUMMARY-EXPENDITURE REPORT OF FEDERAL FUNDS
PROGRAMS UNDER BILINGUAL EDUCATION ACT (TITLE VII, ESEA)

(NOTE: Please read the attached instructions before completing this form)

NAME AND ADDRESS OF GRANTEE	PROJECT NUMBER	GRANT NUMBER	STATE
District 14, B'klyn N.Y 223 Graham Ave. (11206)	820330	OEC-0-70 2772(280)	NEW YORK

PART I - EXPENDITURES

(Check one) [X] PROPOSED BUDGET SUMMARY (ATTACH DETAIL SCHEDULES) [ ] ESTIMATED EXPENDITURE REPORT [ ] FINAL EXPENDITURE REPORT

BUDGET PERIOD (MO., DAY, & YEAR)

EXPENDITURE ACCOUNTS: FUNCTIONAL CLASSIFICATION	ACCT'S NO.	EXPENSE CLASSIFICATION: SALARIES PROFESSIONAL	SALARIES NON-PROFESSIONAL	CONTRACTED SERVICES	MATERIALS AND SUPPLIES	TRAVEL	EQUIPMENT	OTHER EXPENSES	TOTAL EXPENDITURES	NEGOTIATED BUDGET
1	2	3	4	5	6	7	8	9	10	11
1 ADMINISTRATION	100	24,171.00	9,926.00	18,725.00		1,290.00		3,465.00	52,977.00	
2 INSTRUCTION	200	23,622.00	11,700.00		12,263.00	2,220.00		12,750.00	72,900.00	
3 ATTENDANCE SERVICES	310									
4 HEALTH SERVICES	320									
5 PUPIL TRANSPORTATION SERVICES	330			1,500.00					1,500.00	
6 OPERATION OF PLANT	410		104.00						104.00	
7 MAINTENANCE OF PLANT	420									
8 FIXED CHARGES	430	12,415.00	10,421.00						22,836.00	
9 FOOD SERVICES	510									
10 STUDENT BODY ACTIVITIES	1610									
11 COMMUNITY SERVICES	1900							414.00	414.00	
12 REMODELING	1700			1,000.00					1,000.00	
13 CAPITAL OUTLAY (EQUIPMENT ONLY)	1750						5,530.00		5,530.00	
14 TOTAL		71,208.00	31,551.00	17,225.00	12,263.00	3,510.00	5,530.00	16,029.00	157,321.00	
15 NEGOTIATED BUDGET										

JA 342

ADDITION ACCOUNT NO. 100

Expense Class	Name & Title, Purpose, or Item	Project Time: Full	Project Time: Part	Quantity	Salary, Rate or Unit Cost	Budgeted Amount
SALARIES:						
Professional:	Mr. Daniel Fortolles, Project Director			Annual	$ 19,025. base	
				Sept.-June 1971		
			x	Developmental and per session.	5,146.	$ 24,171.00
Non-professional:	Clerk	x		Annual	4,667. base	
			x	Dev. & per session.	469.	5,136.00
	School Aide		x	4 hrs/day	@ 2.54/hr	2,085.21
	School Aide non-instructional		x	4/hrs/day	"	2,085.21
Contracted Services:						
	Bank Street for Learning Inc.		x	As per design.	Fixed Price Cont.	9,000.00
	The Stanwick Corporation		x	As per design.	" " "	3,000.00
	The Puerto Rican Forum		x	As per design.	Local contract	1,000.00
	Mr. Robert Rochick		x	As per design.	" "	800.00
TRAVEL:						
	New York to Miami/ RT			2 days		225.00
	New York to Philadelphia/ RT			2 trips		100.00
	New York to Tulane, Conf. - New Orleans/ RT			4 days		300.00
	New York to Puerto Rico - Procurement of Tests/ RT			2 days		150.00
	New York to Washington D.C. - Office of Ed. /RT			3 Trips		225.00
	Mileage - Local			1000 miles		100.00
	Mr. Robert Rochick - New Mexico to New York/RT			2 days		425.00
OTHER COSTS:						
	Phone			Annual		250.00
	Reproduction and Duplication			"		1,000.00
	Publishing Cost of Proposal					50.00
	Storage for general use and dissemination of brochure.			Developmental		200.00
	Office Supplies, Paper, stencils, etc.			Annual		1,000.00
				"		

JA 348

...DGET ACCOUNT NO. 20) ... Class	Name & Title, Purpose, or Item	Project Time: Full	Project Time: Part	Quantity	Salary, Rate or Unit Cost	Budget Amount
	(Continued)					
	...AL EXPENSES:					
	...ter Teaching Fellowship - Stipends		x	5 teachers and 5 para-prof.	@ $50.00 @ 300.00	$ ... .00
	...ity of Arizona University In-Service (12 credits) Training.		x	5 teachers and 5 para-prof.	@ 75.00/credit	2, ... .00
	...ll-time Intensive Training in Spanish ...r Project Supervising Assistant Coord... Labor.		x	3 Assistant Coordinators	Local Contract	3, ... .00
	...ll, ... Consultant Rate:		x	approx. (4)	13 sessions @ 50.00/session	... .00 ... .00
	...l Library					

JA 2-19

ACCOUNT NO. 250

Expense Class — Name & Title, Purpose, or Item	Project Time: Full	Project Time: Part	Quantity	Salary, Rental or Unit Cost	Budgeted Amount
SALARIES:					
Professional : Bilingual Teacher	x		(3) Annual	(1) 9,250.00	
		x	(3) per session	(2)$ 8,250.00 base @ 13.32/session	$ 27,000.00 4,887.00
English Language Arts Teacher	x		1 Annual		*00,000.00
Assistant Coordinators		x	4 per session	@ 10.75/session	1,925.00
Non-professional: Family Worker		x	(2)@ 4 hrs./day	@ 2.25/hr.	3,000.00
Educational Assistant (Instructional)	x		(3)@ 6 hrs./day	@ 2.25/hr.	8,100.00
TRAVEL:					
New York to Washington D.C. /RT			11 trips for 4 people.		000.00
TUCSON, New Orleans/ RT			1 trip for 2 people.		600.00
New York to Puerto Rico-Meeting/ RT			1 trip for 1 person.		200.00
New York to Philadelphia/ RT			3 trips for 5 people.		1,000.00
MATERIALS AND SUPPLIES:					
Textbooks and Manipulatives			2 x grants		200.00
Paper for classroom duplication			" "		1,000.00
Training Kits			" "		300.00
Bilingual Manipulatives For Spanish Program Grades			" "		1,710.00
Textbooks and Supplies For 2 Yr. classes.			" "		5,100.00
Textbooks and Supplies For 1 Yr. X class.			" "		3,100.00
Art Consumables			" "		1,000.00

JA 350

EXPENDITURE ACCOUNT NO. 500

Expense Class	Name & Title, Purpose, or Item	Project Time: Full	Project Time: Part	Quantity	Salary, Rate or Unit Cost	Budgeted Amount
CONTRACTED SERVICES:						
	Bus Trips for Cultural purposes		x	22 trips	at approx. 70.00 per trip.	$ 1,500.00

JA 351

Service Class	Name & Title, Purpose, or Item	Project Time: Full	Project Time: Part	Quantity	Salary, Rate or Unit Cost	Estimated Amount
[illegible]	Fringe Benefits	x				
	Pension				@ 15.9%	
	Social Security				@ 4.8%	
	Unions				variable	
	Health				@ 240.00/year	
[illegible]	Fringe Benefits	x			@ 5%	
	Pension				@ 17.18%	
	Social Security				@ 4.8%	
	Unions				@ 10.20/month	
	Health				@ 20.00/month	
[illegible]	Fringe Benefits	x	x			
	Social Security				@ 4.8%	
	Vacation and Holiday				@ 10%	
	Unions				@ 6% payroll	
	Health				@ 20.00/month	
	Subtotal Fringe Costs (25%)					
	(Total Salaries requested)					

JA 352

EXPENDITURE ACCOUNT NO. 1120 c Remodeling costs

Expense Class	Name & Title, Purpose, or Item	Project Time		Quantity	Salary, Rental or Unit Cost	Budgeted Amount
		Full	Part			
CONTRACTED SERVICES:						
	Painting of classrooms at P.S. 122K by community based contractor		x	approx. 10 rooms.	local contract	$ 1,000.00

NDITURE ACCOUNT NO. 1200 Capital Outlay

nse Class — Name & Title, Purpose, or Item	Project Time: Full	Project Time: Part	Quantity	Salary, Rente or Unit Cost	Budge Amount
EQUIPMENT: OFFICE					
Typewriter (Elec.)			1	Unit cost	$ 350.
Duplic or			2	" "	200.
Filo ets			3	" "	300.
Desk:			2	" "	336.
Chairs			2	" "	104.
Copier			1	" "	1,400.
FAMILY ROOM: Chairs, Lamps etc.			1		700.
CLASSROOM: Recorders (Tape or Cartridge)			3	" "	390.
Phonographs			3		195.
Cabinets			5		375.
Kindergarten Room(Tables and Chairs)			2		900.
Pre-K Room (Tables and Chairs)			1		200.

Minutes of meeting about Yiddish-English bilingual Progra

December 12, 1973
7:30 p.m.
125 Heyward Street

Meeting attended by 65 people representing PTA groups, community educationa. representative of different non public schools and parents.

This meeting was called by ad hoc committee to discuss the ways and means of the Chassidic Yiddish speaking children to participate in a Yiddish-English bilingual program under Title VII of the Federal Education Act. The meeting was opened by a temporary chairman, Mr. Klagsbald, who expressed his deep concern of all present to the fact that the Chassidic community has been ignored and neglected by the Board of Education and the local district #14 to meet the needs of a bilingual program for Yiddish speaking children.

Mr. Klagsbald made a passionate speech in which he described the total neglect of non public school children in regard to many existing governmental programs and especially referring to Title VII which is in existence in the district and serves non English speaking children in the public school system but does not serve the non public school Yiddish speaking children. The needs, Mr. Klagsbald stated, is very great among the Chassidic Yiddish speaking community in Williamsburgh and unless something will be done to develop such a program soon, it will have far reaching deteriorating effect on the entire community since the Chassidic Yiddish speaking population is a large segement of Williamsburgh.

Mrs. Feuerwerker claimed that she has at numerous times discussed this matter with the principal of the school and urged him to introduce such program in the school but as of today nothing was done. She criticized the local leadership of the non public school people for neglecting such a vital area of education.

Mr. Deutsch said that the need to introduce such a program must be in the kindergarten, first and second grade classes so that the children will be fluent in both English and Yiddish.

Mr. Steinberger wanted to know if a bilingual program will be on the expense of the Yiddish language. He feels that although it is important for the children to know the English language, we are not ready to abandon the mother tongue Yiddish, and we must at the same time continue to teach the children English as well.

Mr. Schwartz suggested that a Yiddish-English bilingual adult educational program must also be introduced at the same time to help the total family, not just for the young children in acquiring the English language.

It was suggested by Mr. Feldman that a steering committee is to be set up to deal with this question immediately and call another meeting in the very near future with a report.

Mr. Nojowitz suggested that we immediately meet with the elected officials of the community School Board to demand and request immediate action to submit a proposal for Yiddish-English program under Title VII in our next budget.

Mr. Nojowitz made this an official proposal and it was carried unamiously.

Meeting was adjourned at 9:30 p.m.

Minutes respectfully submitted by Mrs. Greenwald.

The following were elected to meet with members of the School Board:

Mr. Klagsbald
Mr. Nojowitz
Mr. Glanzer
Mrs. Bauerwerker

Minutes of meeting about Yiddish-English bilingual programs

January 22, 1974

Meeting called to order at 7:45 p.m., temporary chairman of the evening, Mr. Nojowitz who welcomed the participants and introduced the special guest for the evening, Mr. Leopold Lefkowitz, member local School Board.

Mr. Nojowitz reported the numerous meetings held with members of the School Board, District Superintendents, and members of Mr. Rogers and his staff to discuss the submission of a proposal for the Yiddish-English bilingual program under Title VII for school year 74-5.

Mr. Nojowitz and Mr. Klagsbald both reported the meetings the community held with different members of the local School Board and educators in the community who have all agreed that such a program is a necessity and vital for the educational system in Williamsburgh.

Mr. Lefkowitz took the floor and stated that under the Federal guidelines non-public schools can participate in the Title VII Program provided that it is under the jurisdiction of the local School Board and follows strict adherence in all guidelines of the program. He further stated that the local school board is willing to submit such proposal and does not forsee any problems in implementing the program. He promised to intensify the efforts and as soon as the proposal will be written, to meet with the Federal representative of HEW on this matter.

A number of participants at the meeting wanted to know why Mr. Lefkowitz and others of the local School Board have up to this point ignored the needs of the non-public schools, especially when a program of this kind was already functioning in the public school system without benefiting any of the children in the non-public schools. Mr. Lefkowitz explained that he is a new member on the Board; therefore, he cannot explain the action of the Board in the past, but promised that in the future the Board will serve the educational needs of all the children in all the public and non public schools in the community. He admitted that a certain degree of neglect did exist in the past in regard to non public school children which amounts to almost fifty percent of school age children.

Discussion was open as to who will sponsor this bilingual program. A number of suggestions were made by different participants. Mrs. Lefkowitz suggested that this should be a joint venture of seven different Yiddish speaking non public schools. Mr. Tirnauer felt that being that this is a new program it should not involve so many different schools but rather concentrate on one or two different schools to be able to closely evaluate this new program.

Mrs. Landau wanted to know how many children can initially be included in such program. Mr. Lefkowitz, member of the Board felt that the program should include between four hundred and four hundred and fifty children to begin with, and then in next school year it may expand to include more youngsters.

A general debate ensued and Mr. Feldman made a motion that the program should be conducted in Beth Rachel, and United Talmudical Academy, the largest non public school system in the community. The motion was carried by an overwhelming majority of those participating in the meeting.

Mr. Steinberger made a motion to authorize the committee to write the proposal and to negotiate all aspects of this program with the proper authorities. This motion was carried unamiously.

Mr. Weiss suggested that an advisory committee be elected to oversee all the aspects of the program. The following names were suggested and elected unamiously: Mr. Deutsch, Mr. Feldman, Mrs. Feuerwerker, Mr. Glanzer, Mr. Klagsbald, Mrs. Landau, Mr. Nojowitz, Mrs. Schwartz, Mr. Shenwald, Mr. Steinberg, Mr. Tirnauer, and Mrs. Weiss.

Mr. Klein suggested that as soon as this bilingual proposal is finalized that a meeting be called to get a report from the steering committee. This motion was carried.

Meeting was adjourned at 9:30 p.m.

Minutes respectfully submitted by:
Mrs. Greenwald

Minutes of meeting about Yiddish-English bilingual program

September 2, 1974
8 o'clock p.m.

Meeting called to order by Mr. Klagsbald

Mr. Klagsbald introduced Rabbi Frankel who gave an extensive report on the negotiations to develop a Yiddish-English bilingual program in the non public schools of Williamsburgh. He gave a detailed report on the negotiations and discussions with the local school board members, superintendent of school and staff, as well as representives from HEW offices in Washington. The program, Rabbi Frankel stated, has been approved and will be functioning as of September 9, 1974 through June, 1975. The program will serve one hundred children in United Talmudical Academy, in PreK through first grade and three hundred children in Beth Rachel grades PreK through first.

The program, he stated, will be staffed by bilingual master teachers, teacher aides, and family workers. Mr. Klagsbald expressed his appreciation to all involved for their aid in setting up this program. He explained that this program is a component of the bilingual program serving the entire community and including the public as well as the non public school children. He further explained that under the guidelines set in Washington this program will be monitored by the local School Board.

Mrs. Wertzberger suggested that all personnel for this program should be recruited from the community and thereby also creating jobs for local residents.

Mr. Klagsbald explained that being that it is a bilingual program, we must find people on the basis of their knowledge and ability rather than their areas of residence. This especially refers to the licensed personnel. Mrs. Wertzberger concurred on this but insisted that the non professional community residents should be given priority.

Mr. Horowitz made this suggestion as a motion and it was carried unamiously.

Mr. Weiss made a motion to express appreciation to the steering committee and to the advisory committee for successfully bringing this program to the non public school children and thereby, helping to upgrade the education of the entire community. Special thanks go to the chairman, Mr. Klagsbald, and his associates. This motion was carried unamiously. Meeting adjourned at 9:30 p.m.

Minutes respectfully submitted by Mrs. Rubinstein

Minutes of meeting about Yiddish-English bilingual program

May 2, 1974
8:00 p.m.

Meeting called to order by Mr. Nojowitz

He introduced representatives from different non public schools in the area who were present at the meeting and informed that the proposal was submitted to serve four hundred children at Beth Rachel and United Talmudical Academy under Title VII Bilingual Program.

This proposal, if implemented will be a milestone in the development in upgrading the educational needs of our children and improving the entire educational standard of our community.

Mr. Nojowitz cautioned the participants that there are many problems to overcome before this proposal will become a reality. The major problem will be with Federal Agencies who will have to make additional funds available to expand the bilingual program in district 14 which will include the Yiddish-English component.

Mr. Glanzer discussed the development of a curriculum for this program and stated some of the problems that have to be overcome especially in areas of Yiddish instructional material which has not yet been fully developed.

He further stated that some experiments will have to be conducted finalizing the proper material for such a program.

Mr. Lefkowitz, member of the School Board, expressed his optimism that the proposal will ultimately become a reality hopefully in September '74. He further stated that it is in the interest of the entire district that such a program be introduced among the non public school children. Williamsburgh, he stated is a multi-ethnic and cultural community and it is our responsibility to help meet the needs of all the children.

In his discussions with other members of the local School Board, Mr. Lefkowitz reported, they agreed to push this program which is long overdue in the community.

Mrs. Weiss made a passionate speech in which she blamed members of the community for not being more militant in getting eligible programs for the children of the non public schools. She stated that as tax payers, our children in non public schools are also entitled

to benfit from some programs which have been designed for all the children. She called upon the participants to organize ourselves and demand our rightful share of these programs for the benefit of the education of our children.

Her remarks were met by a loud applause by the entire audience.

Mr. Glanz made a motion to adjourn the meeting and the motion was carried.

Meeting adjourned at 9:15 p.m.

Minutes respectfully submitted by Mrs. Rubinstein

OFFICE OF REIMBURSABLE PROGRAMS
SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

ADDITIONAL INFORMATION AND AMENDMENTS TO DISTRICT 14's TITLE VII PROJECT APPLICATION

PARAPROFESSIONAL PERSONNEL

1. Will be recruited and hired by the director of District 14's personnel department in accordance with all established Board of Education regulations pertaining to the employment of paraprofessionals.

2. Will be under the direct supervision of and accountable to District 14 supervisory personnel, in consultation with the project coordinator and the professional resource teachers assigned to the program.

3. Will receive specialized in-service training from the professional resource teachers, so as to enable them to develop an acceptable level of proficiency in one of the following subject areas: a) reading and language arts, b) mathematics, c) social studies and science, d) cultural heritage. In so far as paraprofessionals will be delivering specific instructional services, they will be trained jointly according to the subject of their specialty.

4. Will not be assigned to one classroom. Paraprofessionals will move from class to class within each site delivering specific services, on a regularly scheduled basis.

5. The feasibility of having paraprofessionals move from site to site will be explored.

6. Those paraprofessionals specializing in cultural enrichment instruction will be moving from site to site on a regularly scheduled basis.

YIDDISH CULTURAL ENRICHMENT

The Yiddish cultural enrichment instruction, referred to in the original project proposal for the Hebrew Day School component, has been eliminated and replaced by American and Hispanic cultural enrichmen . However, some Yiddish culture will be taught as part of the overall cultural enrichment curriculum of the program.

YIDDISH INSTRUCTION

All instruction that was to take place exclusively in Yiddish, as outlined in the original project proposal, has either been eliminated or been replaced by Yiddish-English bilingual instruction.

YIDDISH MATERIALS

The original intention to purchase some exclusively Yiddish language instructional materials has been discarded. It is understood that the development and purchase of additional Yiddish-English bilingual instructional materials will best serve the needs of the Title VII program.

PARENT INVOLVEMENT

Family Workers/Family Assistants will work together as a unit under the direct superivison of the professional personnel assigned to the program. Wherever feasible, activities involving parent participation for all five sites, will take place at one central location. The original project application contains a separate parent involvement component outlining specific objectives and activities.

PARENT ADVISORY COMMITTEE

A district-wide parent advisory committee made up predominantly of parents of project participants, will meet formally during the month of July to discuss the various modifications in the project that have been undertaken subsequent to the time that the proposal was originally submitted. It is duly noted, that the Local Education Agency has continuously consulted with those individuals representing the interests of the various public and non-public schools involved in the proposed Title VII program as it progressed through the period of negotiations. An up-to-date list of Parent Advisory Committee members and the minutes of the next meeting will be forwarded as soon as possible.

WILLIAM A. ROGERS
COMMUNITY SUPERINTENDENT

TELEPHONE
963-2520

JA 364

OFFICE OF REIMBURSABLE PROGRAMS

SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

Saints Peter and Paul: E.S.L. Title I - 5 days per week

Grade	Number of Pupils	Days Per Week
1	15	3
2	15	3

Our Saviour: E.S.L. Title I - 5 days per week

Grade	Number of Pupils	Days Per Week
1	50	5
2	22	5
3	10	5
4	3	5

In addition to Title I - Small groups, student tutors, senior involvement programs for students involved in E.S.L. instruction is provided for youngsters at both schools.

PLEASE NOTE: All of the English As A Second Language services currently being provided, will continue at at least the same level during the 1974-75 school year.

"F"

WILLIAM A. ROGERS
COMMUNITY SUPERINTENDENT

JA 365

TELEPHO
969-252

OFFICE OF REIMBURSABLE PROGRAMS

SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

The project coordinator, professional resource people and secretarial and clerical personnel will all be assigned to a central location and be involved in all components of the Title VII project. Professional resource personnel (whose specific duties are outlined in the project application) will be responsible for the effective implementation of all aspects of the instructional program. All Title VII personnel will be employees of and solely accountable to the Local Education Agency.

A tentative schedule of personnel assignments follows below:

Position	Monday	Tuesday	Wednesday	Thursday	Friday
E.S.L.	P.S.122	P.S.122	P.S.122	Sts.Peter&Paul/ United Tal.	Sts.Peter&Paul United Tal.
E.S.L.	Our Saviour	Our Saviour	Beth Rachel	P.S.122	Beth Rachel
S.S.L.	P.S.122	P.S.122	P.S.122	P.S.122	P.S.122
S.S.L.	Our Saviour	Sts.Peter & Paul	Our Saviour	Our Saviour/ Sts.Peter&Paul	Our Saviour/ Sts.Peter&Paul
Y.S.L.	Beth Rachel	United Tal.	Beth Rachel	Beth Rachel/ United Tal.	Beth Rachel/ United Tal.
C.C.	P.S.122	P.S.122	P.S.122	Sts.Peter&Paul	Sts.Peter&Paul
C.C.	Our Saviour	Our Saviour	Beth Rachel	Beth Rachel	P.S.122

The project coordinator will be required to visit all five sites on a regularly scheduled basis.

WILLIAM A. ROGERS
COMMUNITY SUPERINTENDENT

TELEPHON
963-2520

JA 366

OFFICE OF REIMBURSABLE PROGRAMS
SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

Currently the early childhood grades in Beth Rachel and United Talmudical Academy include instruction in reading readiness and reading, language arts, social studies and mathematics. These subjects are taught primarily in Yiddish, but English is used as a second language of instruction. Of the 3½ hours these subjects are taught per day, approximately 1½ hours are spent in instruction in English. Approximately 60 youngsters are presently receiving additional small group English As A Second Language instruction at both schools.

Because of the magnitude of the language problems, it is felt that a more comprehensive approach to bilingual education is a necessity in order to assure success for those youngsters whose English language skills are severely deficient. It is hoped that a bilingual instructional program such as the one described in the proposed Title VII program will serve as a model for the entire complex of Hebrew Day Schools in District 14.

PLEASE NOTE: All of the English As A Second Language services currently being provided, will continue at at least the same level during the 1974-75 school year.

COMMUNITY SUPERINTENDENT

JA 367

OFFICE OF REIMBURSABLE PROGRAMS

SCHOOL DISTRICT 14, BROOKLYN

310 SOUTH FIRST STREET

BROOKLYN, NEW YORK 11211

TIME SCHEDULE - APPLICABLE FOR:

Our Saviour School - Grades 1-4

Saints Peter and Paul - Grades 1-2

8:30	9:00	Free Play
9:00	9:10	Opening Exercises
*9:10	10:30	English Language Arts and Reading in groups
10:30	10:45	Recess
*10:45	12:00	Spanish Language Arts and Reading in groups
12:00	12:45	Lunch
12:45	1:15	Math
1:15	1:45	Science - Monday, Thursday Social Studies - Tuesday, Friday Physical Education - Wednesday
1:45	2:15	Music, Storytelling, Art
2:15	2:45	Religious Instruction**
2:45		Preparation for dismissal

*While a group is not engaged in directed activity, the children do assigned or independent work.

During the morning, children also attend special English classes when needed.

**Personnel, materials and supplies provided for the Title VII Program will not be utilized during the religious instruction period.

See the project proposal for specific details of the instructional program.

WILLIAM A. ROGERS
COMMUNITY SUPERINTENDENT

TELEPHON
963-2520

JA 368

OFFICE OF REIMBURSABLE PROGRAMS

SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

October 11, 1974

Elizabeth Keesee
Project Director
United States Office of Education
ROB # 3 - Room 3045
7th And D Streets South west
Washington, D.C. 20201

Dear Mrs. Keesee:

In June 1974, Community School District 14 received notification of a grant award in the amount of $467.231.00 for continuation of project title "Bilingual Early Childhood Center" under CL 91-230, Title VII, Elementary and Secondary Act.

We have been requested by the United States DISTRICT JUDGE, Jack B. Weinstein, in the matter of Parents' Association, Public School 19 versus Community School District 14 et.al. (74 CIV 783) to solicit supplementary funds from your office in order to provide expanded bilingual services to include additional language/handicapped children at Public School 19, 310 South 3rd Street, Brooklyn, New York. The pupil population of the school cited is in excess of 90% Hispanic, a large number of whom are categorized as language/handicapped, a similar target population to those pupils included in the district's continuing application.

May we presume upon your office for a prompt response so that we may apprise the courts regarding the results of this request?

Very truly yours,

Norman Spiegel
Director - Reimbursable Programs

APPROVED:

William A. Rogers
Community Superintendent District # 14

cc: Dr. John Molina

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

O 74 C 783

JA 369

27 NOV 1974.

FILED
IN CLERK'S OFFICE
U. S. DISTRICT COURT E.D. N.Y.
★ DEC 13 1974 ★
TIME A.M.
P.M.

Mr. Norman Spiegel
Director
Reimbursable Programs
Community School District #14
310 South First Street
Brooklyn, New York 11211

Dear Mr. Spiegel:

This letter is written in response to your request of October 11 for funds to supplement the grant award #OEG-0-70-3472 issued to District #14 in June 1974 under Title VII ESEA a bilingual program.

We appreciate the need of the school district for bilingual education and are aware that the Title VII program reaches only small percentage of students who could profit from such a program. The Title VII program has always been a demonstration program and funds are furnished school districts so that they may develop a program especially suited to the children in their attendance area whose language is other than English.

If, however, the addition of Public School 19 to the current program would enhance the model under development, and, if there are sufficient funds within the current grant, then we would suggest that you submit a changed scope of work for our review.

We hope that this letter answers your question. Please feel free to call on us for an additional information needed.

Sincerely yours,

Elizabeth Keesee

Elizabeth Keesee
Chief, Eastern Area Programs

G

WILLIAM A. ROGERS
COMMUNITY SUPERINTENDENT

74 C 783

TELEPHONE
963-2520

OFFICE OF REIMBURSABLE PROGRAMS
SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

FILED
U.S. DISTRICT COURT, N.D.
DEC 2 1974

October 31, 1974
P.M.

Elizabeth Keesee
Project Director
United States Office of Education
ROB # 3 - Room 3045
7th and D Streets South West
Washington, D.C. 20201

Dear Mrs. Keesee:

We have been informed by Sister Thomasine, Principal of Saints Peter and Paul, that unforeseen circumstances make it impossible for the district to strictly adhere to the Title VII guidelines as they apply to the school. After conducting several meetings in an attempt to iron out the difficulties presented to us, we have agreed to honor the Sister's request and are hereby withdrawing Saints Peter and Paul from District 14's Title VII program.

As always, your cooperation concerning this matter is greatly appreciated.

Very truly yours,

Jeffrey Feingold
Coordinator, Title I

APPROVED:

William A. Rogers
Community Superintendent

JF:pd
cc: Sister Thomasine, Principal
Saints Peter and Paul

Plaintiff's Exhibit "6"

29

The City of New York

LAW DEPARTMENT

MUNICIPAL BUILDING

NEW YORK, N. Y. 10007

W. Bernard Richland

ADRIAN P. BURKE, *Corporation Counsel*

March 20, 1975

Ira Bezoza, Esq.
Williamsburg Legal Services
260 Broadway
Brooklyn, New York

Re: Parents Committee of
P.S. 19 v. CSB 14

Dear Mr. Bezoza:

In response to your letter of March 12, 1975 concerning defendants' responses to plaintiffs' second interrogatories please be advised of the following:

Interrogatory 1 - With respect to (b) defendants do not possess a directory of street addresses of all parochial schools in District 14. Since we believe that this information is available in a source equally accessible to plaintiffs' as to defendants (the Brooklyn Telephone Directory) we respectfully refer you thereto.

As to (d) (e) & (g) - defendants do not possess nor maintain records with respect to the requested information.

Interrogatory 2 and 3(b) Defendants do not possess nor maintain records with respect to such information. (c) The information requested is unknown to defendants.

Interrogatory 4 b (i) - The language data survey employed by the Board of Education is based upon teacher assessment of pupil language ability. The mode of assessment initially in oral questioning and observation by the classroom teacher. Thereafter, the student is tested for language comprehension and categorized as either Language Category I (severely language handicapped) Category II, (moderately language handicapped) Category III (no language handicap) and this determination is noted

on child's home room record card. There is no written testing instrument administered.

(ii) Bilingual, fluent in Spanish and in English. Bilingual Program Committee is same as Parents Advisory Committee

(iii) June 1974

Interrogatory 5 (a) There is no written model for the language data survey

(c) There is no additional data.

Interrogatory 6 The information requested has been provided in defendants' response to interrogatory 6, a and b. The defendants did not maintain daily records of conversations and meetings nor were records maintained of meetings with non-public school principals.

Interrogatory 7 The District received the assurances of Rabbi Frankel and Sr. Felippo with respect to the original language data survey and to the more extensive language data survey.

Interrogatory 8 End of June 1974

Interrogatory 10 There was no expanded needs assessment data requested by or submitted to United States Office of Education.

Interrogatory 11 and 13. Defendants reiterate their objections to these interrogatories.

Interrogatory 14 - Defendants maintain that were the present action one challenging the qualifications of the teaching staff at the Bilingual Early Childhood Center interrogatory 14 would arguably be relevant. However, in the context of a First Amendment action the information requested is irrelevant and the compilation of such information would unduly burden defendants.

Interrogatory 15 - For 1971-2 Classes were: 1 - Pre K, 2-k, 2-1st grades; 72-3 - 1 Pre K, 2 K, 2-1st 2-2nd grades; 73-4 1 Pre K, 2K, 2 1st, 2-2nd, 2-3rd grades.

Interrogatory 18 - See 6 supra

Interrogatory 20 Community Advisory Committee

Interrogatory 21 See 11 and 13 supra

Interrogatory 23 These were the only meetings. Defendants did not maintain records of telephone conversations. Exhibit E and F do contain the series of assurances and personnel assignments submitted in July.

Interrogatory 25 and 26 Defendants reiterate their objections to these interrogatories.

As per our previous discussion, we shall notify you of the cost of reproduction of the tapes of the CSB 14 Meetings and upon receipt of that sum from your office we shall comply with your request.

Enclosed herewith is a certification pursuant to F.R.C.P. 33 of the responses originally supplied and those supplied herein.

Yours very truly,

Rosemary Carroll
Assistant Corporation Counsel

RC:
enc:

CERTIFICATION

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

ROSEMARY CARROLL, being duly sworn, deposes and says:

1. I am an attorney in the office of W. BERNARD RICHLAND, Corporation Counsel, attorney for the defendants, Community School Board No. 14 and its members and having been assigned the defense of this action am familiar with its facts and circumstances.

2. The foregoing answers are true to my knowledge and belief, said knowledge and belief being based upon conversations with defendants and employees of the defendant and inspection of relevant records and books maintained by the said defendant.

ROSEMARY CARROLL

Sworn to before me this
25th day of March, 1975

GAYLE S. SANDERS
Notary Public, State of New York
No. 31 344[illegible]90
Qualified in New York County
Commission Expires March 30, 1976

Response of District 14 to Interrogatory 19 of
Plaintiffs' Second Set of Interrogatories

The City of New York
LAW DEPARTMENT
MUNICIPAL BUILDING
NEW YORK, N. Y. 10007
W. Bernard Richland
[redacted], Corporation Counsel

April 15, 1975

Ira Bezoza, Esq.
Williamsburg Legal Services
260 Broadway
Brooklyn, New York

Re: Parent-Teachers Association of P.S. 19 v. Community School District #14 et al.

Dear Mr. Bezoza:

Enclosed herein please find the response of Community School District #14, including exhibit, to interrogatory 19 of plaintiffs' second set of interrogatories.

Very truly yours,

Rosemary Carroll
Assistant Corporation Counsel

Enclosure

A.19. a) The Parents Advisory Committee for the Spanish-English component of the 1974-75 Title VII grant consisted of a committee for each of the schools which were targetted for participation in this component of the program.

Thus, a Parents Advisory Committee was established and met with respect to the program directed at students attending P.S. 122. Please refer to exhibit I annexed to the affidavit of Norman Spiegel, previously submitted in support of the municipal defendants' motion for summary judgment. The exhibit consists of the minutes of various meetings held by this committee. Included are the names of participants, who are parents of children in attendance at P.S. 122. The dominant language of the committee members is Spanish.

The Home School Association for Our Savior School comprised of parents of children attending Our Savior School held meetings between December, 1973 and June, 1974. Annexed hereto as exhibit H are the calendars of said meetings. The names and addresses of individual parents participating in these meetings are unavailable, however their dominant language is Spanish.

Likewise a Home School Association of Sts. Peter and Paul was comprised of parents of students attending Saints Peter and Paul whose dominant langauge is Spanish. The names of parents who regularly attend such meetings are:

Mrs. Rivera	Mrs. Roman
Mr. Vergara	Mr. Valentin
Mrs. Ellen	Mrs. Caraballo
Mrs. Estrada	Mrs. Parriagna
Mrs. O'Donovan	Mrs. Fragrosa
Mr. Mercado	Mrs. Cardona
Mrs. Rios	

The addresses of these parents is unavailable.

b) Each meeting held of the above committees took place at the respective school.

The dates are as follows:

P.S. 122 - See exhibit I of Spiegel affidavit referred to in "a" above.

Our Savior - See Exhibit "H" submitted herewith.

Saints Peter and Paul - June 12, 1974, November 13, 1974, January 15, 1975. See also, response to interrogatory 6, previously submitted.

c) See response to interrogatory 6. See also exhibit "I" of Spiegel affidavit referred to in "a" above. The Home School Association meetings of both Our Savior and Saints Peter and Paul dealt with general discussions concerning various matters attendant to school administration and the delivery of education, including, but not limited to the respective school's participation in the 1974-75 Title VII program of District 14. See also exhibit "H" submitted herewith.

d) See exhibit "I" of Spiegel affidavit and referred to in "a" above, exhibit "H" annexed hereto, and the response to interrogatory 6 previously submitted.

e) The Home School Association for both Our Savior and Saints Peter and Paul schools consistently and wholeheartedly endorsed their respective school's participation in the 1974-75 Title VII program of District 14 at all association meetings during which the Title VII proposal was discussed.

Only Public School 122 received Title VII assistance in District 14 for the prior four (4) years of the District's five (5) year program. The Parents Advisory Committee for the school endorsed yearly the school's

participation in the continuing Title VII program, and that support continued for the 1974-75 project proposal, which represented the final year of the program.

f) The Community School Board did not formally approve the establishment of such committee.

Wed., June 5 - Meeting of the Home-School Association in the Auditorium at 7:45 p.m. The Glee Club will entertain in honor of the Centennial of Transfiguration Parish. There will be an exhibit of the students' art work.

Fri., June 7 - First Friday of the month. Faculty meeting in the afternoon. Classes dismissed at 12 noon after lunch.

Sat., June 8 - The Home-School Association will sponsor a "Night at the Races" in the Auditorium at 7:30 p.m. Admission $1.00. No one under 18 will be admitted.

Mon., June 10 - Winners of the Raffle will be chosen. Prizes are: Color TV, Polaroid Camera, and a Basket of Cheer. Please return all raffle books and money to the Office by 11 a.m. on June 10.

Tues., June 11 - The students of the 7th Grade will take a special test and be dismissed at 10 a.m.

Wed., June 12 - Pre-Exam Carnival and Toy Sale sponsored by the Home-School Association during the School day.

Sat., June 15 - Graduation at 5:30 p. m.

Thurs., June 13)
Fri., June 14) Examinations in the morning. Dismissal at 11:30 a.m.
Mon., June 17) Lunch will be served.
Tues., June 18)

Wed., June 19 - Rating Day. No school for students.

Thurs., June 20 - Distribution of report cards. Dismissal at 10:00 a.m.

ESCUELA DE NUESTRO SALVADOR

CALENDARIO PARA JUNIO 1974

el miércoles, 5 de junio - Reunión de la Asociación de Hogar y Escuela a las 7:45 p.m. en el auditorio. El Coro de la escuela presentará un programa para celebrar el Centenario de la Parroquia de la Transfiguración. Habrá una exhibición del trabajo artístico de nuestros estudiantes.

el viernes, 7 de junio - Reunión mensual de la facultad. No habra clase por la tarde.

el sábado, 8 de junio - Tendrémos carreras de caballos auspiciada por la Asociación de Hogar y Escuela en el auditorio a las 7:30 p.m. Entrada $1.00. No se permiteran menores de 18 años.

el lunes, 10 de junio - Se seleccionarán los ganodores de la rifa. Los premios constituyen de un televisión en colores, una cámara Polaroid y un canasto de golosinas. Favor de entregar todos los libros de la rifa adjunto al dinero junio 10, en la oficina.

el martes, 11 de junio - Los estudiantes del séptimo grado cogerán un examen especial y saldrán a las 10:00 a.m.

el miércoles, 12 de junio - Durante el día de clases, carnaval y venta de juguetes auspiciado por la Asociación de Hogar y Escuela.

el sábado, 15 de junio - Los ejercicios de Graduación en la misa a las 5:30 p.m.

el jueves, 13 de junio)
el viernes, 14 de junio)
el lunes, 17 de junio) - Exámenes finales por las mañanas. Los niños
el martes, 18 de junio) saldrán a las 11:30 a.m., después de almuerzo.

el miércoles, 19 de junio - Día para corregir los exámenes. No habrá clase para los estudiantes.

el jueves, 20 de junio - Se distribuirán los informes y saldrán a las 10:00 a.m.

OUR SAVIOUR SCHOOL

SCHOOL CALENDAR FOR MAY 1974

Friday, May 3 - First Friday. Faculty Meeting in the afternoon. Classes dismissed at 11:45 p. m.

Friday, May 10 - Special teachers' meetings. The children will not come to school.

Saturday, May 11 - The Parish Drama Guild will present "The Gift" at 8:00 p.m., in the auditorium. All are invited. No admission charge.

Wednesday, May 15 - Home-School Association Meeting at 7:45 p.m., in the auditorium. Grading and Reporting to Parents will be discussed. Parents will have an opportunity to meet with the teachers.

Saturday, May 18 - 5 p. m. in Transfiguration Church, Bishop Mugavero will offer a Mass of Thanksgiving to celebrate the 100th Anniversary of Transfiguration Parish. All are invited.

Thursday, Mary 23 - Ascension Thursday, Holyday of Obligation. School closed.

Friday, May 24 - School closed.

Monday, May 27 - Observance of Memorial Day. School closed.

Thursday, May 30 - A representative of the Greene Uniform Company will be here to measure boys for trousers, including boys entering First Grade in September. 9 a.m. in the auditorium.

All tuition should have been paid by April 30. If there is any reason why all bills cannot be paid now, please speak to the Principal and/or a member of the Finance Committee.

CALENDARIO ESCOLAR PARA MAYO 1974

el viernes, 3 de mayo - Reunión mensual de la facultad. No habrá clase por la tarde.

el viernes, 10 de mayo - Reuniones especiales para los maestros. Los niños no vendrán a la escuela.

el sábado, 11 de mayo - El Club Dramático de Transfiguración presentará "El Regalo" en el auditorio a las 8 p.m. Todos están invitados. Entrada gratis.

el miércoles, 15 de mayo - Reunión de la Asociación del Hogar y Escuela a las 7:45 p.m. en el auditorio. Se discutirá las notas y la manera de dejarle saber a los padres del progreso de sus hijos. Los padres tendrán la oportunidad de hablar con los maestros.

el sábado, 18 de mayo - 5 p.m. Iglesia de la Transfiguración. Nuestro Obispo Monseñor Mugavero celebrará una Misa en Acción de gracias por los 100 años de la Parroquia de la Transfiguración. Todos están invitados.

el jueves, 23 de mayo - Día de la Ascensión. Día de precepto. No habrá clase.

el viernes, 24 de mayo - No habrá clase.

el lunes, 27 de mayo - Día de los héroes. No habrá clase.

el martes, 30 de mayo - 9 a.m. Un representante de Greene Uniform Co. vendrá a la escuela para medir los niños, incluyendo los que entran en septiembre.

Toda la cuota anual debía estar pagado en el 30 de abril. Si hay una razón por la cual eso no ha sido posible, por favor habla con la Principal o a un miembro del Comité Financiero.

JA 381

OUR SAVIOUR SCHOOL

SCHOOL CALENDAR FOR MARCH 1974

Friday, March 1	- First Friday of the month. Classes will be dismissed at 11:45 a. m.
Monday, March 4 to Thursday, March 7	- Distribution of report cards. Each Class will be notified as to the procedure to be followed.
Friday, March 8	- Diocesan Textbook Exhibit--No school.
Monday, March 11 to Friday, March 15	- SRA Tests will be administered to Grades 3 through 8.

Registration for Our Saviour School for September 1974, will be held in March. Details will follow.

Thank you for your help in the chocolate drive. We have a few bars left. We would like all money in by Thursday, March 7.

CALENDARIO ESCOLAR PARA MARZO 1974

el viernes, 1 de marzo	- Reunión mensual de la facultad. No habrá clase por la tarde.
el lunes, 4 de marzo al jueves, 7 de marzo	- Se distribuirán las tarjetas de las notas. Cada clase recibirá instrucciones especiales de su maestro.
el viernes, 8 de marzo	- Habrá una exhibición de libros para los maestros de la diócesis. No habrá clase.
el lunes, 11 de marzo al viernes, 15 de marzo	- Los estudiantes de los grados 3ro al 8vo cogerán exámenes especiales de S. R. A.

Matrícula para la Escuela de Nuestro Salvador tendrá lugar en marzo. Recibirán los detalles la semana que viene.

Gracias por su ayuda en la venta de chocolates. Todavía tenemos chocolates. Queremos recibir todo el dinero antes del jueves, el 7 de marzo.

Sister Filippa
Principal

JA 382

OUR SAVIOUR SCHOOL

SCHOOL CALENDAR FOR FEBRUARY 1974

THE CHOCOLATE DRIVE WILL CONTINUE UNTIL FRIDAY, FEBRUARY 8

Friday, February 1 - First Friday of the month. Faculty meeting in the afternoon. Classes dismissed at 11:45 a. m., after eating lunch.

Tuesday, February 12 - There will be class until 11:40 a. m. No lunch will be served in school.

Wednesday, February 13 - Home-School Meeting in the auditorium at 7:45 p. m. Agenda - Financial problems facing the school this year. Budget for 1974-75.

Friday, February 15 - 3.00 p. m. - Monday, February 25, 8:20 a. m. - MID-WINTER RECESS - SCHOOL WILL BE CLOSED.

CALENDARIO ESCOLAR PARA FEBRERO 1974

LA VENTA DE CHOCOLATES SEGUIRA HASTA EL VIERNES 8 DE FEBRERO

el viernes, 1 de febrero - Primer viernes del mes. Reunión mensual de la facultad. Los niños saldrán a las 11:45 a. m. despues de su almuerzo.

el martes, 12 de febrero - Habra clase hasta las 11:40 a. m. No se servirá almuerzo en la escuela.

el miércoles, 13 de febrero - Reunion de la Asociación de Hogar y Escuela en el auditorio a las 7:45 p. m, Agenda - Los problemas financieros que nos enfrentan este año. El presupuesto para el próximo ano 1974-75.

el viernes, 15 de febrero, 3:00 p. m. al lunes 25 de febrero a las 8:20 a. m. - VACACION DE INVIERNO. NO HABRE CLASE.

Sister Filippa
Principal

SCHOOL CALENDAR FOR JANUARY 1974

JA 383

HAPPY NEW YEAR!

Thank you for your support and cooperation in the collection of Campbell Soup labels. We have been able to apply for two educational machines that will benefit our students. Thanks too, to the parents and students who worked so hard on the Christmas sale. Sad to say, some parents and students sold little or nothing and, therefore, the sale wasn't as successful as we had hoped.

Friday, Jan. 4 - First Friday. Faculty meeting in the afternoon. Classes dismissed at 11:45 a. m., after lunch.

Monday, Jan. 7 - Our annual chocolate bar sale will begin. Orders will be taken during this week. Candy will be distributed beginning on Monday, January 14. We are counting on the hard work of each and every parent and student to help us to raise the money we so desperately need in order for our school to stay open.

Saturday, Jan. 19 - Home-School Association Dance from 8 p.m. to 2 a.m., in the school auditorium. Admission is $4 per person. Tickets are available in the school office.

Monday, Jan. 21 - to Friday, Jan. 25 - Catholics Schools Week.

May I remind you that the third tuition payment of $75 is due on or before February 1, 1974. Please be sure to make this payment promptly. If previous payments are not up to date, please pay them during this month of January.

ESCUELA DE NUESTRO SALVADOR
CALENDARIO ESCOLAR PARA ENERO DE 1974

¡FELIZ ANO NUEVO!

Gracias por su apoyo y cooperación en la recolecta de etiquetas de Sopa Campbell. Hemos pedido dos máquinas educacionales para el beneficio de nuestros estudiantes. Gracias tamoién a los padres y estudiantes que trabajaron con tanto esfuerzo en la venta de artículos de Navidad. Es una lastima que algunos padres y estudiantes vendieron muy poco o nada. Por eso, la venta no fue el éxito que nosotros esperabamos.

el viernes, 4 de enero - Primer viernes del mes. Reunión mensual de la facultad. Los ninos saldrán a las 13 después de su almuerzo.

el lunes, 7 de enero - Empezara nuestra venta anual de chocolates. Se cogeran ordenes durante este semana. El chocolate se destribuirá el lunes 14 de enero. Dependemos del trabajo, esfuerzo, y cooperacion que tengan todos los padres y estudiantes para colectar todo el dinero posible (que tan desesperadamente necesitamos) para mantener nuestra escuela abierta.

el sábado, 19 de enero - Baile auspicada por la Asociación de Escuela y Hogar de 8 p.m. a 2 a.m., en el auditorio de la escuela. Entrada es $4 per cada persona. Se vendrán en la oficina de la escuela.

el lunes, 21 de enero al viernes, 25 de enero - Semana de Escuelas Católicas.

Quiero recordarles que el tercer pago escolar debe estar p[illegible], en o antes del primero de febrero. Por favor págelo enseguida. Si los pagos anteriores no han sido pagados, págelos durante este mes de enero.

OUR SAVIOUR SCHOOL
SCHOOL CALENDAR FOR DECEMBER 1973

Monday, Dec. 3	- A representative of the Green Uniform Co. will measure boys for pants in the auditorium at 8:30 a. m.
Monday, Dec. 3 - Friday, Dec. 7	- Report cards will be given out. Each class will be notified as to the procedure to be followed.
Thursday, Dec. 6	- GIANT SALE - New and slightly used articles. There are clothes, household articles, toys, school supplies, including desks, gifts, and Christmas articles. Sale will be held in the auditorium from 9 a. m. to 4 p. m. and from 7 p. m. to 9 p. m.
Friday, Dec. 7	- First Friday. Faculty meeting in the afternoon with the faculties of Most Holy Trinity and All Saints. Classes will be dismissed at 11:45 a. m.
Saturday, Dec. 8	- Feast of the Immaculate Conception. Holyday of Obligation.
Friday, Dec. 14	- During the school day, there will be a special film for Grades 5 - 8, "The Cross and the Switchblade." Admission 50¢.
Monday, Dec. 17	- During the school day, there will be a special film for Grades 1 - 4, "Pollyanna." Admission 50¢.
Wednesday, Dec. 19	- Home-School Association meeting at 7:45 p. m., in the auditorium. Our school Glee Club will entertain with a Christmas Program. Admission is 50¢ for adults and 25¢ for children.
Friday, Dec. 21	- Christmas celebrations. Students do not have to wear uniforms. Dismissal at 10:30 a. m.
Tuesday, Dec. 25	- Christmas Day. Holyday of Obligation.
Tuesday, Jan. 1	- New Year's Day. Holyday of Obligation.
Wednesday, Jan. 2	- School reopens at 8:20 a. m.

We are having a daily sale of Christmas articles. Each article costs $1.

May the peace and love of Christ fill your hearts and homes at Christmas and throughout the year to come.

Sister Filippa

GIANT SALE - To make this activity the financial success we want it to be, each and every parent must cooperate. If you have any articles to donate to the sale, please bring them to the school office. Next Thursday, please come to the Sale and ask your relatives, friends and neighbors to come too.

JA 385

OUR SAVIOUR SCHOOL

CALENDARIO ESCOLAR PARA DICIEMBRE 1973

el lunes, 3 de dic.	- 8:30 a. m., en el auditorio, estará presente un representante de Greene Uniform Company para coger las medidas de los niños que quieren comprar pantalones.
el lunes, 3 de dic. al viernes, 7 de dic.	- Se distribuirán las tarjetas de las notas. Cada clase recibirá instrucciones especiales de su maestro.
el jueves, 6 de dic.	- En el auditorio, 9 a. m. a 4 p. m., 7 p.m. a 9 p.m. - GRAN VENTA de artículos nuevos y en buenas condiciones. Hay ropa, artículos para la casa, juguetes, efectos escolares, incluyendo pupitres, regalos, artículos de Navidad.
el viernes, 7 de dic.	- Primer viernes del mes. Reunión de nuestra facultad con las facultades de la Santísima Trinidad y Todos Los Santos. No habrá clase por la tarde.
el sábado, 8 de dic.	- Día de la Inmaculada Concepción. Día de precepto.
el viernes, 14 de dic.	- Habrá una película especial para los grados 5 - 8, "The Cross and the Switchblade." Entrada 50¢.
el lunes, 17 de dic.	- Habrá una película especial para los grados 1 - 4, "Pollyanna." Entrada 50¢.
el miércoles, 19 de dic.	- Reunión de la Asociación de Hogar y Escuela a las 7:45 p.m., en el auditorio. El Coro de la escuela presentará un programa de Navidad. Entrada: adultos - 50¢, niños - 25¢.
el viernes, 21 de dic.	- Fiestacitas de Navidad. Los niños pueden venir sin uniforme. Las clases terminarán a las 10:30 a.m.
el martes, 25 de dic.	- Día de la Navidad. Día de obligación católica.
el martes, 1 de enero	- Día del Año Nuevo. Día de obligación católica.
el miércoles, 2 de enero	- Las clases empezarán de nuevo a las 8:20 a.m., como de costumbre.

Tenemos una venta diaria de artículos de Navidad. Cada artículo cuesta $1.

Que la bendición del Ninito Jesús sea con ustedes durante la Navidad y que la felicidad les acompañe en el Año Nuevo.

Sister Filippa

GRAN VENTA - Para que dicha actividad sea un gran éxito, cada padre debe brindar su cooperación. Si hay artículos en casa que podemos vender, por favor, traíganlos a la oficina de la escuela. El jueves que viene, día de la venta, vengan a comprar y invitar a sus parientes, amigos y vecinos a venir también.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et al.,	74 Civ. 783 (J.B.W.)
Plaintiffs,	
- against -	DEFENDANT'S ANSWERS TO INTERROGATORIES
COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, et al.,	
Defendants.	

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Elizabeth Keesee, Chief, Eastern Area Programs, Division of Bilingual Education as agent for Terrel H. Bell, Commissioner of the United States Office of Education, submits these answers to the Interrogatories of plaintiffs, the Parents' Committee of Public School 19, et al., which were served on February 11, 1975. Pursuant to the instruction in plaintiffs' Interrogatories the text of each Interrogatory is set out in full before each response.

1. Identify each conversation, meeting or conference of any sort between the defendant, his agents, representatives or employees and the Community School Board of Community School District No. 14 of the City of New York (hereinafter School Board No. 14) their agents, representatives or employees which conversation, meeting or conference related in any way to the development, formulation, submission, modification or evaluation of any "needs assessment" of children attending either public or non-profit private schools in the area served submitted as part of the 1974-1975 Title VII

grant application of Community School District No. 14 of the City of New York (hereinafter School District No. 14) and as to each such conversation, meeting or conference:

(a) list the date and location of, and the names, addresses and titles of the participants in each such conversation, meeting or conference; and

(b) describe in detail the specific subject matter, purpose and outcome of each such conversation, meeting or conference; and

(c) identify all documents relating to each such conversation, meeting or conference, including all minutes or memoranda or documents produced as a result of each such conversation, meeting or conference.

1. (a) - (c) -- See answer to 2 infra.

2. Identify each conversation, meeting or conference of any sort between the defendant, his agents, representatives or employees and the School Board No. 14 their agents, representatives or employees, including, but not limited to, conversations, meetings or conferences between U.S.O.E. Program Officer Elizabeth Keesee and/or U.S.O.E. Contracting Officer Fred Hundemar and School District No. 14 representatives Norman Spiegel and Jeffrey Feingold, which conversation, meeting or conference related in any way to the participation of children of limited English-speaking ability enrolled in non-profit private schools within School District No. 14 in the 1974-1977 Title VII grant of which includes, without limitation, conversations, meetings or conferences pertaining to development, formulation, submission, modification, approval or adoption or implementation of the said grant, and as to each such conversation, meeting or conference:

(a) list the date and location of, and the names, addresses and titles of the participants in each such

conversation, meeting or conference; and

(b) describe in detail the specific subject matter, purpose and outcome of each such conversation, meeting or conference; and

(c) identify all documents relating to each such conversation, meeting or conference, including all minutes or memoranda or documents produced as a result of each such conversation, meeting or conference.

2. (a) - (c)--A. February 5, 1974; meeting at the office of Reimbursable Programs, Community School District #14, 310 South First Street, Brooklyn, New York. Norman Spiegel, Director of Reimbursable Programs, Community School District #14, Jeffrey Feingold, Assistant to Mr. Spiegel; Rabbi H. Frankel, Director of the Bedford-Harrison Day Care Center, Brooklyn, New York; Luis Catarineau, Program Officer, and Elizabeth Keesee, Chief, Eastern Area Programs, Division of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C.

The purpose of the meeting was to discuss the application of Community School District #14 (hereinafter, "the school district") for funds under the Bilingual Education Act (hereinafter, "the Act") to be used to serve children of limited English-speaking ability enrolled in the Beth Rachel School and the United Talmudical Academy, two nonprofit private schools located in the area served by the school district. The discussion centered on the permissible means of meeting the needs of children enrolled in private schools under the Act and regulations promulgated thereunder. Among the points discussed were the following: that in appropriate circumstances, the participation of private school children in projects assisted under the Act is required;

that only local educational agencies, and not private schools, are eligible to apply for assistance under the Act; and that any project assisted under the Act, including one which provides services to children enrolled in private schools, must be administered by the local educational agency.

B. June 12, 1974; telephone conversation between Ms. Keesee and Mr. Feingold. Ms. Keesee indicated that the Office of Education would consider a proposed project involving the participation of private school children whose dominant language was Yiddish and public and private school children whose dominant language was Spanish, so long as other requirements of law, discussed in 2A, supra, were met. Mr. Feingold stated that Community School District #14 would ensure that all services assisted under the Bilingual Education Act were administered by the public school district.

C. June 19, 1974; meeting at the offices of the Division of Bilingual Education, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C. John Molina, Director of the Division of Bilingual Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C.; Ms. Keesee; Mr. Spiegel; Mr. Feingold; Barry Stevens and Philip Rosenfelt, Attorneys, Office of the General Counsel, Department of Health, Education, and Welfare, 400 Maryland Avenue, S.W., Washington, D.C.

The purpose of the meeting was to review the procedures for the participation of limited English-speaking children enrolled in private schools in the school district's [illegible] project. The participants reviewed a chart prepared by Ms. [illegible] on April 10, 1974, showing enrollments and other information concerning Community School District #14 and private schools located in the area served by that school district. Represent

of the school district stated that the chart did not reflect the number of limited English-speaking children enrolled in all private schools in the area served by the school district. Other particular matters discussed were provisions for the school district's maintaining administrative direction and control over services to children enrolled in private schools; the need to address, in the school district's proposed project, the special educational needs of limited English-speaking private school children to the same, and not to a greater, extent as the needs of limited English-speaking public school children; the need, in providing for the participation of private school children in the proposed project, to build upon, and not replace, existing language and cultural instruction in the private schools; the formation of the community advisory group provided for by the program regulations; and the amount of funds requested for services to private school children in the school district's application.

School district representatives were requested to provide additional information regarding administrative procedures to ensure public supervision of project services; the needs of private school children in the area to be served, including the number of limited English-speaking children enrolled in private schools other than the schools referred to in the school district's application; and the existing language and cultural programs in private schools from which children would be drawn to participate in the school district's proposed project. School district representatives were also advised of the need to form a single community advisory group for the proposed project.

D. June 1[illegible] 1974; meeting at the offices of the Division of Bi[illegible]al Education. Keesee, Mr. Spieg[illegible] and Mr. Feingol[illegible].

participation [illegible] items in the proposed budget relating to services to children enrolled in private schools. School district representatives were requested to modify the project budget to reflect participation in proposed activities growing out of the meeting described in IC supra, and to eliminate or reduce certain [illegible].

E. June 25, 1974 meeting at the offices of the Office of the General Counsel, Federal Office Building #6, 400 Maryland Avenue, S.W., Washington, D.C. Ms. Koesee, Mr. Spiegel, Mr. Feingold and Mr. Rosenfelt.

The meeting was held so that the representatives of the school district could submit the materials requested at the meetings held on June 19 and so that these materials could be reviewed in light of the matters discussed at those meetings and the applicable provisions of the statute and regulations. The materials were found to be responsive to the matters discussed in the earlier meetings.

3. Identify each conversation, meeting or conference of any sort among or between the defendant, his agents, representatives or employees which conversation, meeting or conference related in any way to the development, formulation, submission, modification or evaluation of any "needs assessment" of children attending either public or non-profit private schools in the area served submitted as part of the 1974-1975 Title VII grant application of School District No. 14, and as to each such conversation, meeting or conference:

(a) list the date and location of, and the names, addresses and titles of the participants in each such conversation, meeting or conference; and

(b) describe in detail the specific subject matter, purpose and outcome of each such conversation, meeting or conference; and

(c) identify all documents relating to each such conversation, meeting or conference, including all minutes or memoranda or documents produced as a result of each conversation, meeting or conference.

3. (a) - (c)--See answer to 4 infra.

4. Identify each conversation, meeting or conference of any sort among or between defendant, his agents, representatives or employees which conversation, meeting or conference related in any way to the participation of children of limited English-speaking ability enrolled in non-profit private school within School District No. 14 in the 1974-1975 Title VII grant of School District No. 14 which includes, without limitation, conversations, meetings or conferences pertaining to development, formulation, submission, modification, approval, adoption or implementation of the 1974-1975 Title VII grant application, and as to each such conversation, meeting or conference:

(a) list the date and location of, and the names, addresses and titles of the participants in each such conversation meeting or conference; and

(b) describe in detail the specific subject matter, purpose and outcome of each such conversation, meeting or conference; and

(c) identify all documents relating to each such conversation, meeting or conference, including all minutes or memoranda or documents produced as a result of each such

conversation, meeting or conference.

4. (a) - (e) - [illegible] March 30 - April 3, 1974; meetings at the offices of the Division of Bilingual Education, Ms. Keesee, Dr. Molina, and other employees of the Division.

During this period of time, when applications for assistance under the Act were being reviewed by the Division, the Community School District #14 application was discussed on various occasions. Completion of the processing of the application was deferred until the Office of the General Counsel was consulted.

B. On or about June 7, 1974; meeting at the offices of the Office of the General Counsel. Ms. Keesee; Barbara Wells, Program Officer, Western Area Programs, Division of Bilingual Education, United States Office of Education, 400 Maryland Avenue, S.W., Washington, D.C.; Mr. Stevens, Mr. Rosenfelt.

The purpose of the meeting was to discuss applications, including that of Community School District #14, as to which the Division of Bilingual Education had sought legal counsel. Discussion of that school district's application centered on whether the Act and applicable regulations permitted assistance for a project in which certain participating private school children had a dominant language (Yiddish) different from the dominant language of other participating children from public and private schools (Spanish), and if so, whether the approval of the application submitted by Community School District #14 [illegible] other legal questions. Mr. Stevens and Mr. Rosenfelt [illegible] the Bilingual Education Act and regulations promulgated [illegible] did not preclude funding such a project. It was agreed [illegible] other questions raised by the school district's applic[illegible] should be discussed with representatives of the school d[illegible] prior to any approval of its application (see 2B, C, D [illegible]

5. Identify each conversation, meeting or conference of any sort between the defendant, his agents, representatives or employees and School Board No. 14, their agents, representatives or employees which conversation, meeting or conference related in any way to the participation of children of limited English-speaking ability enrolled in non-profit private schools within School District No. 14 for the 1970-1971 through 1973-1974 Title VII grants of School District No. 14, and as to each such conversation, meeting or conference:

(a) list the date and location of, and the names, addresses and titles of the participants in each such conversation, meeting or conference; and

(b) describe in detail the specific subject matter, purpose and outcome of each such conversation, meeting or conference; and

(c) identify all documents relating to each such conversation, meeting or conference, including all minutes or memoranda or documents produced as a result of each such conversation, meeting or conference.

5. (a)- (c)--None.

6. State whether defendant, his agents, representative or employees informed local educational agencies that proposed regulations, 45 C.F.R. 123 et seq. published in the Federal Register on October 1, 1973 and published in final form on May 22, 1973 were applicable to Title VII grants for the year 1974-1975.

6. Yes.

7. If the answer to interrogatory 6 is in the affirmative, identify:

(a) when such information was conveyed;

the person or persons who conveyed such information;

[illegible] the [illegible] of persons to whom such information was conveyed; and

(c) how such information was conveyed; if by a document, identify the document.

7. (a) - (c)--On January 29, 1974, a Notice of Acceptance of Applications for assistance, for fiscal year 1975, under the Bilingual Education Act was published in the Federal Register (39 F.R. 3706). This Notice referenced the October 3, 1973, publication of proposed regulations for 45 CFR Part 123, and stated that the revised regulations were expected to be in effect before awards of assistance were made. In addition, the Division of Bilingual Education routinely informed local educational agencies which requested information about the bilingual education program that the revised regulations would be applicable to awards of assistance for projects to be carried out in fiscal year 1975.

8. Set forth by school year the number of Title VII grants to local educational agencies since the inception of Title VII to the time of these Interrogatories in which the number of children enrolled in non-profit private schools participating in the program was equal to or exceeded the number of children enrolled in public schools operated by the local educational agency participating, indicating:

(a) the name and location of the local educational agency;

(b) the needs assessment of the children enrolled in public schools of the local educational agency;

(c) the number of children enrolled in public [illegible] participating in the program;

(d) the needs assessment of the children enrolled in non-profit private schools within the district of the local educational agency;

(e) the number of children enrolled in non-profit

private schools participating in the program;

(f) the total monetary amount of the Title VII grant;

(g) the monetary amount of the grant to the public schools by the local educational agency; and

(h) the monetary amount of the grant to the non-profit private schools.

8. (a) - (h) -- Except for the current grant to Community School District #14, with respect to which plaintiffs have been provided the requested information in documents produced on March 12, 1975, no such grant is known to have been made.

Elizabeth Keesee

Elizabeth Keesee
Chief, Eastern Area Programs
Division of Bilingual Education

Washington D.C.

Sworn to and subscribed before me this 2nd day of April, 1975.

Nancy Goldman

Notary Public

My Commission Expires August 31, 1977

AFFIDAVIT OF MAILING

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK, ss:

Stella Magier, being duly sworn, says that on the 3d day of April, 1975, I deposited in Mail Chute Drop for mailing in the U.S. Courthouse, Cadman Plaza East, Borough of Brooklyn, County of Kings, City and State of New York, Defendant's Answers to Interrogatories of which the annexed is a true copy, contained in a securely enclosed postpaid wrapper directed to the person hereinafter named, at the place and address stated below:

Ira S. Dezenhall, Esq.
%Williamsburg Neighborhood Legal Services
260 Broadway
Brooklyn, New York 11211

Sworn to before me this
3d day of April,
1975.

AFFIDAVIT OF PERSONAL SERVICES

STATE OF NEW YORK
COUNTY OF KINGS
EASTERN DISTRICT OF NEW YORK, ss:

---, being duly sworn, says that he is employed in the office of the United States Attorney for the Eastern District of New York. That on the ---- day of ---, he served a true copy of the annexed --- on the office of --- attorney for --- herein, located at ---, Borough of ---, City of New York, by leaving a true copy of same with his clerk or other person in charge of said office.

Sworn to before me this
day of

Notice of Cross-Motion

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et. al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, and,

TERREL H. BELL, individually and in his capacity as Commissioner of the United States Office of Education of the Department of Health, Education and Welfare.

74 CIV. 783
(J.B.W.)

NOTICE OF CROSS-MOTION

PLEASE TAKE NOTICE that upon the annexed affidavit of IRA S. BEZOZA and supplemental affidavit of PATRICIA VENGATA, and upon the defendant's motion papers for summary judgment originally returnable March 10, 1975, and adjourned to and now returnable April 18, 1975, and upon all the pleadings and proceedings heretofore had herein, the plaintiff will move this Court, to be held at the United States Court House, 225 Cadman Plaza, Brooklyn, New York in Room 10 on the 18th day of March, 1975 at 9:30 A.M. or as soon thereafter as counsel can be heard for an order:

(1) pursuant to Rule 56(e) of the Federal Rules of Civil Procedure striking paragraphs 15, 16, 29 and 12, 13, 18, 19, 22, 24, 25 of the affidavit of Herman Spiegel, attached to defendants' motion for summary judgment, on the grounds that said is not made upon personal knowledge or set forth facts as to which the affiant is competent to testify;

Satin
596-6595

(2) pursuant to Rule 56 of the Federal Rules of Civil Procedure denying defendants' motion for summary judgment on plaintiffs' Fourth and Fifth Claim for Relief as there are genuine issues of material facts as the allegations contained therein, or in the alternative, pursuant to Rule 56(f), granting plaintiffs a continuance of said motion to allow the completion of discovery;

(3) pursuant to Rule 56 of the Federal Rules of Civil Procedure granting a summary judgment in favor of plaintiffs as respects their Sixth Claim for Relief upon the ground that there is no genuine issue of any material fact and that plaintiff is entitled to a judgment as a matter of law; PAC

(4) pursuant to Rules 33 and 37 of the Federal Rules of Civil Procedure compeling the municipal defendants to administer immediately in School District No. 14 the language data survey developed by defendants pursuant to the consent decree in Aspira of the City of New York v. Board of Education, 72 Civ. 4002 (S.D. N.Y. August 29, 1974) to every child enrolled in the public and parochial schools located in District No. 14 to determine and assess the total number of children of limited English-speaking ability; and

(5) for such other and different relief as the Court may deem necessary.

DATED: Brooklyn, New York
April 15, 1975

Respectfully submitted,

RICHARD S. PANEBIANCO, ESQ.,
IRA S. BEZOZA
PATRICIA VERGATA
WILLIAMSBURG LEGAL SERVICES
260 BROADWAY, BROOKLYN, NEW YORK

KENNETH KIMERLING
HERBERT TEITLEBAUM
PUERTO RICAN LEGAL DEFENSE FUND
95 MADISON AVENUE
NEW YORK, NEW YORK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et, al.,

Plaintiffs,

-against-

THE COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, et, al.,

- and -

TERREL H. BELL, INDIVIDUALLY AND IN HIS CAPACITY AS COMMISSIONER OF THE UNITED STATES OFFICE OF EDUCATION OF THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE,

Defendants.

74 Civ. 783 (JBW)

AFFIDAVIT IN OPPOSITION TO MUNICIPAL DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

STATE OF NEW YORK)
: ss.:
COUNTY OF KINGS)

IRA S. BEZOZA, being duly sworn, deposes and says:

1. I am an attorney for the plaintiffs in this action and make this affidavit in opposition to the municipal defendants' motion for summary judgment and in support of plaintiffs' cross motion to dismiss paragraphs 15, 16, 29 and 12, 13, 18, 19, 22, 24, 25 of the affidavit of Norman Spiegel on the ground that said affidavit does not comply with the requirements of Rule 56(e) of the Federal Rules of Civil Procedure in that said affidavit is not made upon personal knowledge or sets forth facts as to which the affiant is competenet to testify.

2. On April 9th, the depositions of Sister Ellipa Ann Luciano, prinicipal of Our Savior School, and Rabbi Naftali H. Frankel, principal of United Talmudical Academy, the purported "needs assessment" coordinators for the non-public parochial schools, were taken. Neither deposition has been completed. As an alternative to this Court's dimissal of defendants motion, as is prayed for herein, plaintiffs respectfully request a continuance to allow for the completion of discovery and deposition pursuant to Fed. R. Civ. P., Rule 56(f).

3. Central to plaintiffs' claim, that the disproportionate servicing of parochial schools violates the Bilingual Education Act, 20 U.S.C. §880b, and the regulations promulgated thereunder, is the compilation, validity and reliability of the assessment of needs of children of limited English speaking ability in the public and parochial schools. It is upon such "needs assessment" that a determination is made as to the proper allocation of funds and services between public and parochial school children.

4. Upon this motion, it is plaintiffs' contention that Normal Speigel, the affiant, and Director of Reimbursable Programs, does not possess facts based upon personal knowledge or any documents upon which he is competent to testify as to the validity of the "needs assessment" of the parochial schools. (Exhibits "G" and "H" of defendants' motion for summary judgment).

5. It is further plaintiffs' position that as to plaintiffs (a) Fourth Claim for Relief in their Supplemental Complaint, that the disproportionate allocation of Title VII funds and services to parochial school children violates the statute and regulations, genuine issues of material fact exist as to the propriety, validity and compilation of the "needs assessment" and summary judgment should be denied; (b) Fifth Claim for Relief, that the disproportionate allocation of funds to parochial school children violates the Establishment Clause of the First Amendment to the United States Constitution, genuine issues of material facts exist as to the principal effect of the grant of such public aid and the political entanglement of the state and religious institutions and summary judgment should be denied; (c) Sixth Claim for Relief, that the defendants have violated regulations requiring the establishment and consultation of a community advisory group, defendants have admitted said violation and summary judgment should be granted in favor of plaintiffs.

6. Paragraphs 15, 16 and 29 of Mr. Speigel's affidavit, in which the affiant alleges, in pertinent part, that a language data survey similar to that used in the public schools classified 7,790 and of 11, 095 children enrolled in Hebrew Day Schools and 2,491 out of the 6,911 children enrolled in Roman Catholic Day Schools as English language handicapped should be stricken. This information, which is contained in Exhibit "G" and "H" of defendants' motion, is not based on the personal knowledge of the affiant but was purportedly compiled by Sister Fillipa Ann Luciano and Rabbi Frankel and provided to the defendants and affiant. See Response, paragraph 4, to Plaintiffs Second Interrogatories to Community School Board. In fact, at the deposition of Rabbi Frankel, on April 9th, he stated that he personally supervised only the "needs assessments" for Beth Rachel and United Talmudical Academy, and that a Rabbi Albert Friedman of United Talmudical Academy was responsible for the twenty-one other schools listed in Exhibit "G", a fact either unknown to the defendants and affiant or undisclosed by them to plaintiffs in their Responses.

7. Nor does the affiant possess any underlying data to support the final "needs assessment" contained in Exhibits "G" and "H". See Responses, paragraph 5(c) to Plaintiffs' Second Interrogatories. Additionally, affiant does not possess personal knowledge as to the location and street address of the schools listed in Exhibit "G". Responses, paragraphs 1, 2 and 3 to Plaintiffs' Second Interrogatories and letter of counsel, Rosemary Carroll, dated March 26, 1975 to Ira S. Bezoza. Correspondence between Ira S. Bezoza, plaintiffs' counsel dated March 12, 1975 and Rosemary Carroll, municipal defendants' counsel concerning the adequacy of municipal defendants responses to plaintiffs' interrogatories is attached hereto as Plaintiffs' Exhibit "A." This is relevant to plaintiffs claim herein, for a number of the Hebrew Day Schools, included within

the needs assessment, are located outside School District No. 14.

8. The affiant's entire knowledge of the validity of the "needs assessment", in terms of numbers and means by which it was compiled, was based upon hearsay, conjecture and presumption and should be disallowed. See Responses, paragraph 7 to Plaintiffs' Second Interrogatory.

9. It is further submitted that paragraphs 12, 13, 18, 19, 22, 24, 25 do not set forth facts based upon personal knowledge or upon which affiant is competent to testify but are conclusionary statements which should be disallowed.

10. As for plaintiffs' Fourth Claim for Relief, it is respectfully submitted that there are genuine issues of material facts as to the validity and reliability of the "needs assessments" compiled by the parochial schools, its comparison with public schools assessment, and the appropriate allocation of fund. between public and parochial school children. Plaintiffs possess certain direct and circumstantial evidence which contradicts the "needs assessments" of the parochial schools, in particular the Hebrew Day Schools, and are seeking further discovery. The following is respectfully submitted:

(a) The "needs assessment" contained in Exhibit "G" includes the needs of children enrolled in Hebrew Day Schools outside the boundaries of School District No. 14. Attached hereto as Plaintiffs Exhibit "B" is a copy of a document submitted by Rabbi Frankel, at his deposition on April 9th, which lists the location of United Talmudical Academy and Beth Rachel which were included in the "needs assessment. United Talmudical Academy locations outside of the School District include the schools at 167 Sands Street and 176 Degraw Street; Beth Rachel location outside of the District is 225 Patchen Avenue. Neither the Community School Board nor Rabbi Frankel possess information concerning the street addresses of the other twenty-one schools listed in Exhibit "G".

Plaintiffs have been referred to the Brooklyn Telephone Directory for this information by defendants, see Responses paragraphs 1, 2 and Exhibit "A", but the results have confused the matter further. No listings were found for the following schools;

Yeshiva Benai Mordechai
Yeshiva Minchas Eleizer
Yeshiva Shaar Hatorah
Yeshiva Shomrei Hadas Bekashoe
Yeshiva Tzemach David
Yeshiva Ahavas Torah

Additionally, Bnos Yakov was listed as 174 Pacific Street, outside the District: Beth Jacob Teachers Seminary was listed at 143 South 8th Street and 280 Rodney Street, within the District, while there were no listings for Beth Jacob Elementary and High Schools. However there was a Beth Jacob of Borough Park. Plaintiffs cannot rely on such information and will seek further discovery.

It is plaintiffs position that allocation must be based upon the number of parochial children with special educational needs who are enrolled in non-profit private schools in the District, see 20 U.S. C. §880b-3b(3)B, and thus such information is vital to this action.

(b) Elementary and Secondary Education Act (ESEA) Title I programs requires the compliation of a "needs assessment" of public and non-public school children based upon, in pertinent part, educational achievement and minimum competency as measured by certain tests, MAT's etc. The "needs assessments" are not conducted by the local school boards or parochial schools but by the central Board of Education, Office of Funded Programs, Bureau of ESEA Title I, through a private consulting firm, Applied Urbanetics, Inc. Attached as Exhibit "C" is a memorandum from Mr. Gene M. Satin, Director of the Bureau of ESEA Title I, to Community School Superintendent Rogers and Community School Board Chairman Brother Lally, dated June 21, 1974; attached thereto, is a document indicating the total number of eligible Non-public school children on a school by school basis with district totals.

This Title I survey includes all of the Catholic day schools listed in the Title VII "needs assessment" (see Exhibit "H" of municipal defendants' motion) and two Evangelical schools not included. Note that only ten Hebrew Day Schools are listed in this Title I needs assessment of District 14 schools. Twenty-three Hebrew Day Schools are listed in the Title VII needs assessment (Exhibit "G") which was compiled by the Hebrew Day Schools. This document was supplied to plaintiffs by the Community School Board as part of their Title I application.

(c) Attached hereto as Exhibit "D" is a second memorandum from Mr. Satin to Mr. Rogers and Brother Lally, dated July 3, 1974, providing instructions for the completion of the 1974-1975 Title I Application. Reference is made to the third paragraph providing instructions for the Non-public School Program component, attached as Exhibit "E", which provides the total number of children enrolled in the participating schools. This information was provided to the local school board by the Program Development Area Associate, not the parochial school. The Hebrew Day Schools total student enrollment is provided as follows:

Beth Jacob Elementary	114
Yeshiva Yesode Hatorah	217
Beth Rachel School for Girls	1686
Torah of Belz	238

However, the listing of the total student enrollment of these same schools submitted by the parochial school in the Title VII "needs assessment"(Defendants' Exhibit "G") shows completely different figures as follows:

Beth Jacob Elementary	210
Yeshiva Yesode Hatorah	320
Beth Rachel School for Girls	2025
Torah of Belz	250

The three Title I participating Catholic Day Schools total student enrollment figure is more consistent:

SCHOOL	TITLE I	TITLE VII
Saint Cecilia	750	750
Immaculate Conception	309	314
Most Holy Trinity	400	366

(d) Plaintiffs also submit that there is a correlation between minimum educational competence and language competence that calls into question the gross disparity in figures of District 14 public and parochial school children who have been determined to be achieving below minimal competency versus the figures of those determined to be language-handicapped. Municipal defendants' moving papers assert that of the 17,916 public school children coming from homes where Spanish is the dominant language, only 5161 were moderately language-handicapped and only 2498 were severly language-handicapped, a total of 7659 children. Yet, the Title I application indicates that almost twice that number - 13,534 children - were below minimum educational competency.

For the Hebrew Day Schools, however, thousands more children are listed as being language-handicapped than are listed or achieving below minimal competency (Defendants' Exhibit "G" and Plaintiffs' Exhibit "C"). The figues are as follows:

	TITLE I	TITLE VII
Talmud Torah Toldus	8	Not Listed
Yeshiva Kehilath Yakov	22	510
Bnos Yaakov	35	525
Yeshiva Ahuvas Y'Israel	59	315
United Talmudical Academy	281	2,444
Beth Jacob Elementary	52	73
Yeshiva Yesode Hatorah	155	176
Yeshiva & Mesvita Aruyath Habosem	40	208
Yeshiva Torah of Belz	51	213
Beth Rachel School for Girls	297	1,418

For the Catholic Day Schools listed the figures were more consistent: 2423 were below minimum educational competence and 2,491 were non-English dominant (Exhibit "H", Speigel Affidavit; Plaintiffs' Exhibit "C").

This disparity raises questions about the procedures and criterias utilized by the parochial schools, and the account ability thereof, which are directly in issue in this action. The depositions of Sister Fillipa Ann Luciano and Rabbi Frankel on April 9th confirmed the fact that there was no control by the local educational agency, or even by the two "needs assessment coordinators," over any procedures and criteria utilized in

the parochial schools.

(c) Plaintiffs do not only contend that there is a genuine issue respecting the accuracy and validity of the "needs assessment", but must also call into question the comparability of the assessment of public and parochial "needs". The public schools' "needs assessment" was based upon a total of 26,654 children who were "tested" in the October 31, 1973 Language Data Survey. This Language Data Survey, Exhibit "F" annexed to affidavit of Normal Speigel, includes only elementary, intermediate and junior high school students up to the 9th grade. (High school students fall within the jurisdiction of the central Board of Education.) The Directory of Non-Public Schools, submitted as part of Exhibit "A" of the Community School Board Responses to Plaintiffs' Second Interrogatories, indicates that some of the Hebrew Day Schools, listed therein, had classes in the 10th, 11th and 12th grades. Rabbi Frankel stated at his deposition that United Talmudical Academy included High School, Post High School and Post Graduate grades, but was unable at that time to describe the particular grading patter at any one site. He is to produce the breakdown of the grades, and enrollment per grade, as part of his deposition. The Community School Board has admitted that they do not have any information concerning the grade structures of the Hebrew Day Schools. See Plaintiffs' Exhibit "A". Plaintiffs will seek to ascertain the grade structures of the parochial schools in question.

Clearly, defendants have failed to carry their burden on this motion and should be denied summary judgment with respect to the plaintiffs' claims based upon the Bilingual Education Act and the regulations promulgated thereunder.

11. Defendants also base their disproportionate allocation of funds to parochial school children upon the grounds that no instructional services were provided for parochial school children in the past four years and that the disproportionate allocation was necessary in light of the fact that this was the

fifth and final year of the grant proposal. See paragraphs 8, 9, 11 of the Mr. Speigel's affidavit. First, it should be noted that for each of the four prior years, either the Community Superintendent or the Community School Board Chairman did make specific written assurances to the United States Office of Education that parochial school children with special educational needs would participate in the Title VII project. (Plaintiffs' Exhibit "F", attached hereto, produced by Federal Defendant in response to Plaintiffs Notice to Produce, dated February 10, 1974).

Secondly, neither of the parochial school components was submitted as part of the fifth and final year of a Title VII project. Both Sister Fillipa and Rabbi Frankel at their depositions stated that no such representations were made to them. The Yiddish-English proposal was submitted as a new application. (Plaintiffs' Exhibit G, attached hereto, Application for Federal Assistance from the Yiddish-English proposal.)

Finally Defendants have offered no reasons for the non-inclusion of the parochial school children in the years prior to 1974-75 and have refused to answer Plaintiffs' Interrogatories requesting this information (See Responses to Plaintiffs' Second Interrogatories, paragraph 11)

12. As for Plaintiffs' Fifth Calim for Relief, it is contended that the disproportionate allocation of funds, both absolutely and in relation to the eligible parochial school population, has violated the Establishment Clause of the First Amendment. The provision of public aid in the instant matter has violated both the "effect" and "entanglement" tests established by the Supreme Court decisions. Defendants have not specifically directed themselves to this claim in their moving affidavit.

Plaintiffs' claim is supported, in part, by the failure and refusal on the part of defendants to reveal the substance of the parochial program to the public or to confer with a properly constituted community advisory committee. Plaintiffs have sought, by their Notice to Produce dated January 8, 1975 the

taped recordings made of the Community School Board public meetings of July 24, 1974 and September 6, 1974, and counsel for defendants has indicated that she will produce these tapes. If not, plaintiffs will seek to compel their discovery.' (Attached as Exhibit "H" are the minutes of the July 24th and September 6th meetings.) It is plaintiffs' contention that the tape of the July 24th meeting will show that Rabbi Leopold Lefkowitz and Brother Robert F. Lally, both Board members, refused to permit questions on the parochial school component of the Title VII grant application. It is respectfully submitted that this claim, based as it may be on intent and credibility, is not subject to a motion for summary judgment.

13. As for plaintiffs Sixth Claim for Relief, that defendants failed to establish and consult with a properly constituted community advisory committee, plaintiffs are entitled to summary judgment as a matter of law. It is submitted:

(a) Defendants have admitted that the 1974-1975 Title VII grant application was not approved by a properly constituted single community advisory committee. See affidavit of Mr. Speigel, paragraph 26; 45 C.F.R. §123.16(39 Fed. Reg. 17968, May 22, 1974).

(b) No evidence has been provided that even the public school advisory committee, designated the Bilingual Program Parents Consultation Committee, ever approved the Spanish-English public school proposal prior to submission in February, 1974. See Exhibit "I" of the defendants summary judgment motion and Responses paragraph 19 to Plaintiffs' Second Interrogatories.

(c) On or about July 1, 1974, the municipal defendants provided the United States Office of Education with additional assurances and information to the Title VII grant which included an assurance to establish a district-wide parent advisory committee which was to meet in July, 1974 to discuss the various modifications in the project which had been undertaken subsequent to its submission (Attached hereto Exhibit "I"). No district-wide

advisory committee was established and no meeting was held in July, 1974. See Responses paragraph 22 to Plaintiffs Second Interrogatories.

(d) No district-wide advisory committee has been established to review the operation of the 1974-1975 program or participate in and consult with District Officials prior to the submission of the 1975-1976 Title VII grant application (See 40 Fed. Reg 11596, March 12, 1975). The parent advisory committee that has been established only represents parents of children from P.S. 122, Our Savior and the Hebrew Day Schools. See Responses paragraph 22.

IRA S. BLOZA

Sworn to before me this
15th day of April, 1975.

NOTARY PUBLIC

RICHARD S. PANEBIANCO
NOTARY PUBLIC, STATE OF NEW YORK
No. 24-3[illegible]
Qualified in Kings County
Commission Expires March 30, 1977

WILLIAMSBURG NEIGHBORHOOD LEGAL SERVICES
260 BROADWAY, BROOKLYN, NEW YORK 11211 (212) 782-6195

ATTORNEY IN CHARGE
RICHARD S. PANEBIANCO

STAFF ATTORNEYS
LAWRENCE H. MCGAUGHEY
ARNOLD ROTHBAUM
MARTIN S. NEEDELMAN
IRA S. BEZOZA
PATRICIA VERGATA

CHAIRMAN OF THE BOARD
REGINALD H. NICHOLS

MEMBERS OF THE BOARD
JOHN J. MULLALY, TREASURER
JOHN MULHERN
GARY GINSBURG, ESQ.

March 12, 1975

Ms. Carroll
Assistant Corporation Counsel
Municipal Building
New York, New York 10007

Re: Parents' Committee of P.S. 19 v. Community School Board, 74 Civ. 783 (JBW)

Dear Ms. Carroll:

We have reviewed the defendants' answer to the second set of interrogatories and are disappointed with the results. We consider many of the answers to be incomplete or evasive and the objections to be groundless. Additionally, there has been no response to the Notice to Produce.

Local Rule 9(f), Eastern District of New York, requires that the parties confer in good faith to resolve their disagreements before a motion to compel will be entertained by the Court, we hope that our endeavors will be fruitful and that the unnecessary delay and expense of requiring the Courts' intervention will be avoided.

Set forth separately below are the interrogatories that plaintiffs contend have been insufficiently answered by the defendants and the reasons therefor.

Interrogatory 1 - Reference to Exhibit A does not answer subsections (b), (d), (e) and (g) for all of the parochial schools listed in Exhibit A. Reference to the Brooklyn Telephone Directory does not provide the street addresses for all the parochial schools. Plaintiff do not bear the burden of ferreting out street addresses for the parochial schools which are listed in defendants' Title VII grant application.

Interrogatory 2 and 3 - Subsection (b) is unanswered although defendants do respond that United Talmudical Academy and Beth Rachel are composed of more than one building. Reference to Exhibit A for the response to subsection (c) does not provide the answer to the specific question asked.

Interrogatory 4 - The answer to subsection (b) (i) does not describe in detail the utilization of the Language Data Survey. Any document describing the survey in detail may be produced in response to the Notice to Produce, #3, [See Interr. 5 (b)]. The response to subsection (b) (ii) does not provide the language competence of Sr. Felippa. Additionally, reference to Exhibit B reveals that application of the needs assessment criteria was conducted by a bilingual program committee in the Hebrew Day Schools. There is no reference or identification of such groups in your response to this subsection. Your answer to subsection (b) (iii) does not provide the dates of the more extensive needs assessment conducted in the parochial schools as requested by HEW. [See Interr.].

Interrogatory 5 - The model for the Language Data Survey, and accompanying documents, have not been provided pursuant to Plaintiffs' Notice to Produce.

Defendants' response to subsection 5 (c) does not answer the question but refers to the final needs assessment, Exhibit A and B, which were submitted in response to Interrogatory 1 (h). Interrogatory 5 (c) refers to data used in compiling said exhibits, e.g. language Data Survey, and should be produced pursuant to the Notice to Produce.

Interrogatory 6 - The response to this interrogatory should include all meetings between the defendants and representatives of parochial schools as well as meetings between District Office staff and the parochial schools.

Additionally, response to subsection (c) states that no documents were ever produced by defendants as a result of any of the conversations, meetings or converences, which would include minutes, or correspondence or notice of meetings, e.g. meeting of Non Public School Principals held at the District Office to discuss reimburable programs. Plaintiffs respectfully request a clarification. See also Interrogatory 18, supra.

Interrogatory 7 - Response to this interrogatory indicates that the defendants received assurances from Rabbi Frankel and Sr. Felippa, and assurances are submitted with the original Title VII application [not identified as a document in response to subsection (c)], but it is unclear whether assurances were submitted with regards to the more extensive survey required by HEW. Plaintiffs respectfully request a clarification.

Interrogatory 8 - Response does not indicate the date upon which the expanded needs assessment, Exhibit A, was submitted to the United States Office of Education.

Interrogatory 10 - Response to the interrogatory appears to indicate that a further needs assessment pertaining to public school children was submitted to the United States Office of Education but does not identify said submission. Any document should be produced. Please clarify this response.

Interrogatory 11 - This interrogatory deals specifically with a defense raised by the defendants in their opposition to the motion to supplement the complaint, their answer and their summary judgment motion and thus germane and relevant. Same objection applies to Interrogatory 13.

Interrogatory 14 - Plaintiffs have alleged a First Amendment challenge to the approval, grant and disbursement of a greater amount of Title VII funds to parochial schools, and this interrogatory requesting information concerning the expenditure of these funds for personnel fall within the parameters of said cause of action.

Interrogatory 15 - Except for Exhibit A of the summary judgment motion, the other exhibits do not provide the information requested.

Interrogatory 18 - Response to this interrogatory should include all meeting between defendants and representatives of parochial schools as well as meetings between District Office staff and the representatives. Exhibit D, not submitted in response to this question, reveals that Rabbi Lefkowitz attended certain meetings conducted by an ad hoc committee concerned with Hasidic bilingual education. Please clarify the response to this interrogatory. See also Interrogatory 6, infra.

Interrogatory 20 - A clarification is requested as to whether the meetings, the minutes of which are submitted as Exhibit D, were held by an ad hoc committee or the community advisory committee represented in Exhibit J of municipal defendants' summary judgment motion.

Interrogatory 21 - See Interrogatory 11, infra.

Interrogatory 23 - The interrogatory requests information respecting each conversation, meeting or conference besides formal meetings between the applicant and the Office of Education. Please clarify. Additionally, Exhibits E and F are not identified sufficiently to indicate whether they contain the series of assurances and personnel assignments submitted during the first week of July. If so, please indicate.

Interrogatory 25 and 26 - The propriety of the needs assessment and the inclusion of parochial school children in grant applications continues to raise issues presented in plaintiffs' supplemental complaint and thus germane and relevant to this proceeding.

We have already discussed the production of the tapes as requested in the Notice to Produce, so we will not belabor the point but hope that you will comply with our request.

We again request that the answers to the interrogatories be properly certified pursuant to F.R.C.P. 33.

We sincerely hope that we can reach an understanding on some of the problems raised herein, and that the parties may resolve them, as much as possible, without the necessity of the Court's intervention.

Since we are on a tight time schedule, we must request an immediate response.

Accordingly, we shall contact you shortly this Friday or Monday concerning your response.

Respectfully yours,

Ira S. Bezoza

ISB:bj

The City of New York
LAW DEPARTMENT
MUNICIPAL BUILDING
NEW YORK, N. Y. 10007
W. Bernard Richland
ADRIAN P. BURKE, Corporation Counsel

JA 415

March 20, 1975

Ira Bezoza, Esq.
Williamsburg Legal Services
260 Broadway
Brooklyn, New York

Re: Parents Committee of
P.S. 19 v. CSB 14

Dear Mr. Bezoza:

In response to your letter of March 12, 1975 concerning defendants' responses to plaintiffs' second interrogatories please be advised of the following:

Interrogatory 1 - With respect to (b) defendants do not possess a directory of street addresses of all parochial schools in District 14. Since we believe that this information is available in a source equally accessible to plaintiffs' as to defendants (the Brooklyn Telephone Directory) we respectfully refer you thereto.

As to (d) (e) & (g) - defendants do not possess nor maintain records with respect to the requested information.

Interrogatory 2 and 3(b) Defendants do not possess nor maintain records with respect to such information. (c) The information requested is unknown to defendants.

Interrogatory 4 b (i) - The language data survey employed by the Board of Education is based upon teacher assessment of pupil language ability. The mode of assessment initially is oral questioning and observation by the classroom teacher. Thereafter, the student is tested for language comprehension and categorized as either Language Category I (severely language handicapped) Category II, (moderately language handicapped) Category III (no language handicap) and this determination is noted

on child's home room record card. There is no written testing instrument administered.

(ii) Bilingual, fluent in Spanish and in English. Bilingual Program Committee is same as Parents Advisory Committee

(iii) June 1974

Interrogatory 5 (a) There is no written model for the language data survey

(c) There is no additional data.

Interrogatory 6 The information requested has been provided in defendants' response to interrogatory 6, a and b. The defendants did not maintain daily records of conversations and meetings nor were records maintained of meetings with non-public school principals.

Interrogatory 7 The District received the assurances of Rabbi Frankel and Sr. Felippo with respect to the original language data survey and to the more extensive language data survey.

Interrogatory 8 End of June 1974

Interrogatory 10 There was no expanded needs assessment data requested by or submitted to United States Office of Education.

Interrogatory 11 and 13. Defendants reiterate their objections to these interrogatories.

Interrogatory 14 - Defendants maintain that were the present action one challenging the qualifications of the teaching staff at the Bilingual Early Childhood Center interrogatory 14 would arguably be relevant. However, in the context of a First Amendment action the information requested is irrelevant and the compilation of such information would unduly burden defendants.

Interrogatory 15 - For 1971-2 Classes were: 1 - Pre K, 2-K, 2-1st grades; 72-3 - 1 Pre K, 2 K, 2-1st 2-2nd grades; 73-4 1 Pre K, 2K, 2 1st, 2-2nd, 2-3rd grades.

Interrogatory 18 - See 6 supra

Interrogatory 20 Community Advisory Committee

Interrogatory 21 See 11 and 13 supra

Interrogatory 23 These were the only meetings. Defendants did not maintain records of telephone conversations. Exhibit E and F do contain the series of assurances and personnel assignments submitted in July.

Interrogatory 25 and 26 Defendants reiterate their objections to these interrogatories.

As per our previous discussion, we shall notify you of the cost of reproduction of the tapes of the CSB 14 Meetings and upon receipt of that sum from your office we shall comply with your request.

Enclosed herewith is a certification pursuant to F.R.C.P. 33 of the responses originally supplied and those supplied herein.

Yours very truly,

Rosemary Carroll
Assistant Corporation Counsel

RC:
enc:

United Talmudical Academy
Branches

JA 418

167 Sands Street

176 Degraw Street

212 Williamsburg St. E st

236 Marcy Avenue

225 Patchen Avenue

115-125 Heyward Street

105 Heyward Street

193 Keap Street

PX-1 DJ
4/9/75

OFFICE OF FUNDED PROGRAMS
BUREAU OF ESEA TITLE I
110 LIVINGSTON STREET, BROOKLYN, NEW YORK 11201

JA 419

'74 JUN 25 AM 8:52

MEMORANDUM NO. 36 , 1973-74

June 21, 1974
310 SOUTH 1ST STREET

TO: Community School Board Chairman, District 14
Community Superintendent

FROM: Mr. Gene M. Satin, Director

RE: BASIC INFORMATION FOR ESEA TITLE I PROGRAMS FOR 1974-75

In order to facilitate the planning of ESEA Title I programs for 1974-75, attached please find the following data as it applies to your district.*

1. Total number of eligible educationally disadvantaged children in ESEA Title I Target Area schools. (On a school-by-school basis with district totals.)

2. Total number of eligible Optional Assignment children. (On a school-by-school basis with district totals.)

3. Total number of eligible Nonpublic school children. (On a school-by-school basis with district totals.)

The distribution of ESEA Title I planning monies for 1974-1975 will be computed on the basis of the attached listed numbers of eligible children.

In preparing your ESEA Title I programs for 1974-75, please remember that these programs may only service eligible educationally-disadvantaged children in ESEA Title I schools, eligible Optional Assignment children and eligible Nonpublic school children. When planning monies are distributed, you will receive names of eligible Nonpublic school children and eligible Optional Assignment children for whom ESEA Title I programs may be provided.

At this time, may I suggest that you conduct a needs assessment of the eligibles in order to determine your ESEA Title I program priorities for the 1974-75 school year.

* Where information is not applicable to your district, data were not provided.

Ex

- over -

If any questions should arise, please contact: JA 420

Mr. Marvin Budow,
Assistant to Director
Bureau of ESEA Title I
Tel. No. 596-6695-66-67

APPROVED:

HELENE M. LLOYD
Assistant Superintendent

APPROVED:

ALFREDO NATHEW, JR.
Executive Director

Att.

cc: Members of the Board of Education
I.Anker, Chancellor
B.Gifford, Deputy Chancellor
H.Siegel, Secretary
Executive Directors
Staff Superintendents
E.Clark
Secretaries, C.S.B.
Title I Coordinators, Central/District
Staff: OFP:BRP:Bureau of ESEA Title I: PDU:BDU

NUMBER OF CHILDREN BELOW MINIMUM READING COMPETENCY ON MAT TESTS

DISTRICT 14
BROOKLYN

PS #	SCHOOL NAME	ENROLLMENT	NUMBER BELOW MINIMUM COMPETENCY
ARGET SCHOOLS			
16	THE LEONARD DUNKLY SCHOOL	920	448
17	THE HENRY D NOCONERTH SCHOOL	1012	816
18	THE EDWARD BUSH SCHOOL	306	154
19	THE JOHN W BULKLEY SCHOOL	1216	1010
23	CARTER G WOODSON SCHOOL	731	351
31	THE SAMUEL F DUPONT SCHOOL	548	301
33	MARK HOPKINS I.S.	1431	911
34	THE OLIVER H PERRY SCHOOL	471	162
49	WILLIAM J GAYNOR I.S.	1205	953
50	JOHN D WELLS J.H.S.	1163	701
59	THE WILLIAM FLOYD SCHOOL	839	309
71	JUAN MOREL CAMPOS I.S.	1[illegible]68	608
84	JOSE DE DIEGO SCHOOL	1[illegible]04	903
110	THE MONITOR SCHOOL	[illegible]89	311
120	P.S. 120	[illegible]15	450
122	THE WILLIAM H HARRISON SCHOOL	625	310
126	JOHN ERICSSON J.H.S.	1262	673
132	THE CONSELYEA SCHOOL	802	370
147	THE ISAAC REMSEN SCHOOL	729	375
148	THE PHILIP A WHITE SCHOOL	539	319
157	THE FRANKLIN SCHOOL	792	437
163	THE BARTLETT SCHOOL	446	235
170	THE TEN EYCK SCHOOL	839	500
250	THE GEORGE H LINDSAY SCHOOL	1029	553
257	JOHN F HYLAN SCHOOL	592	260
297	THE STOCKTON SCHOOL	697	164
318	EUGENIO MARIA DE HOSTOS I.S.	1266	810
TOTALS: TARGET	27 SCHOOLS	22886	13534

JA. 421

NON-PUBLIC TITLE I ELIGIBLE CHILDREN BY RECEIVING SCHOOL
DISTRICT 14
BROOKLYN

SCHOOL NAME	DENOMINATION	ADDRESS	NUMBER OF ELIGIBLE CHILDRE
IMMAC CONCPT BLESSED VIRGIN MARY SCHOOL	2	187 LEONARD ST	91
SFS. PETER & PAUL	2	286 BERRY ST	133
STS. CYRIL & METHODIUS SCHOOL	2	96 DUPONT ST	101
ST. VINCENT DE PAUL	2	130 N 7TH ST	103
ST. STANISLAUS KOSTKA SCHOOL	2	10 NEWELL ST	47
ST. NICHOLAS HIGH SCHOOL	2	29 CATHERINE ST	25
ST. NICHOLAS ELEMENTARY SCHOOL	2	287 POWERS ST	143
ST. CECILIA SCHOOL	2	1-15 MONITOR ST	233
ST. ANTHONY OF PADUA SCHOOL	2	725 LEONARD ST	144
ST. ALPHONSUS SCHOOL	2	175 JAVA ST	42
OUR SAVIOR SCHOOL	2	230 HOOPER ST	348
OUR LADY OF MT. CARMEL SCHOOL	2	10 WITHERS ST	129
OUR LADY OF CONSOLATION SCHOOL	2	139 N 1 ST	65
OUR LADY OF BEDFORD STUYVESANT WEST SCH	2	918 KENT AVE	323
HOLY HOLY TRINITY SCHOOL	2	140 MONTROSE AVE	185
ALL SAINTS ELEMENTARY SCHOOL	2	58 WHIPPLE ST	156
TALMUD TORAH TOLDOS YAOOV YOSEF	3	94-6 WILSON ST	3
YESHIVA KEHILATH YAKOV FOR BOYS	3	206 WILSON ST	22
BAIS YAAKOV D'KHAL ADAS YEREIM	3	563 BEDFORD AVE	35
YESHIVA AHRVAS Y'ISRAEL	3	6 LEE AV (BX 41)	59
GRTO TALMUDICAL ACAD YESH TORAH V'YIRAH	3	82 LEE AVE	231
BETH JACOB ELEMENTARY SCHOOL	3	280 RODNEY ST	52
YESHIVA YESODE HATORAH V'ETZ CHAIM	3	505 BEDFORD AVE	155
YESHIVA & MESIVTA ARUGATH HABOSEM	3	171 HOOPER ST	40
YESHIVA MACHZIKEI TORAH OF BELZ	3	630 BEDFORD AVE	51
ST. MARKS LUTHERAN EVANGELICAL SCHOOL	5	626 BUSHWICK AVE	33
ST. JOHN THE EVANGELIST SCHOOL	5	195 MAUJER ST	32
Beth Rachel School for Girls	3	125 Hayward St.	297
14 TOTALS	28	SCHOOLS	3493

JA 422

BOARD OF EDUCATION OF THE CITY OF NEW YORK
DIVISION OF COMMUNITY SCHOOL DISTRICT AFFAIRS
OFFICE OF FUNDED PROGRAMS
BUREAU OF ESEA TITLE I
110 LIVINGSTON STREET, BROOKLYN, NEW YORK 11201

ORANDUM NO. 39, 1973-74

July 3, 1974

Community School Board Chairman
Community Superintendent

M: Mr. Gene M. Satin

Information Necessary for Completion of 1974-1975 Application for Grant to Meet the Special Educational Needs of Educationally Deprived Children Under Title I of PL 89-10, As Amended

ere providing you with the 1974-75 Title I Targeting Data for district that was generated by Applied Urbanetics Inc. This will assist you in completing Item 9A, columns 1-6 on Page 2 he State Education Department Form 1-1, "Application for Grant to the Special Educational Needs of Educationally Deprived Children r Title I of PL 89-10 as Amended" for 1974-75.

g the information provided in the "Title I Targeting Data" sheet, in columns 9A (1) and (2) in rank order, the school number of the entary, Intermediate and Junior High Schools in which Title I pro- activities will take place and the grade span for each school. order means the school with highest percentage in column (6) and the ol with the lowest percentage last. The "Total Children" will be red in columns (3) and (4); in columns (5) and (6) respectively "Low Income Children" and the "% of Children Low Income" will be rded. Columns (7), (8), and (9) should indicate your proposed number of l participants for each school.

our district is conducting its own Nonpublic School Program, then, mpleting Part B, column (1), list the nonpublic schools in which e I program activities will take place. Contact your Program De- ment Area Associate for "Number of Children enrolled in each of schools" (column 2). To complete Column (3) refer to Memorandum dated June 21, 1974 which indicates the number of eligible children ding each nonpublic school. These are the children who meet the criteria of residency in a Title I, ESEA "Target Area" and who are tionally deprived."

110 LIVINGSTON STREET
BROOKLYN, N.Y. 11201

8:13

Column (4) should indicate your "Number of Proposed Pupil Participants." In column (5) type in the following words, "Available on printout sent to State Education Department."

If there are any questions regarding the completion of this portion of the "Application Grant," please contact your respective Program Development Area Associate.

N.B. If your district is spending its Nonpublic school allocation entirely via the "plug-in" method, then it is only necessary to write in 98, column (1), "District Nonpublic school funds are being expended by means of "plug-ins" to the Central Nonpublic school program. See appropriate Central Nonpublic school modification

APPROVED:

HELENE N. LLOYD
Assistant Superintendent

APPROVED:

ALFREDO MATHEW, JR.
Executive Director

Att:

cc: Members of the Board of Education
I. Anker, Chancellor
B. Gifford, Deputy Chancellor
H. Siegel, Secretary
Executive Director
E. Clarke
Secretary, C.S.B.
Title I Coordinators
Staff, OFP, BRP, Bureau of ESEA Title I

7. [ ] REGULAR-SCHOOL TERM ONLY 8. [ ] SUMMER TERM ONLY

JA 425

	yes	no
7. IS THIS A COOPERATIVE PROJECT?		X
8. IS THIS A RESUBMITTED PROJECT?	X	

9. ALL ATTENDANCE AREAS, LOCATION OF ACTIVITIES, AND NUMBER OF CHILDREN EXPECTED TO PARTICIPATE. List all schools

A. PUBLIC SCHOOLS

	NAME AND GRADE SPAN OF PUBLIC SCHOOL (LIST IN RANK ORDER PER COL. 5 OR COL. 6)		TOTAL NUMBER OF CHILDREN ENROLLED IN EACH SCHOOL LISTED IN COL. (1)	NUMBER OF CHILDREN RESIDING IN ATTENDANCE AREAS			ESTIMATED NUMBER OF CHILDREN WHO WILL PARTICIPATE IN ACTIVITIES AT SCHOOL LISTED IN COLUMN (1)		
	NAME	GRADE SPAN		TOTAL	FROM LOW-INCOME FAMILIES	PERCENT (COLS. 5 ÷ 4)	FROM PUBLIC SCHOOLS	FROM PRIVATE SCHOOLS	TOTAL (COLS. 7 & 8)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
	(ADD SHEETS IF NECESSARY)								
1	P.S. 168	PreK-5	446	446	504	113.0	486		486
2	I.S. 71	5-8	958	958	904	94.4	300		300
3	I.S. 33	6-8	1,431	1,431	1274	89.0	200		200
4	P.S. 120	PreK-5	795	795	696	87.5	538		538
5	P.S. 157	PreK-5	792	792	661	83.5	427		427
6	P.S. 148	PreK-6	539	539	441	81.8	505		505
7	J.H.S. 50	7-9	1,163	1,163	933	80.2	300		300
8	P.S. 257	PreK-5	592	592	468	79.1	511		511
9	P.S. 147	PreK-6	792	792	575	78.9	547		547
10	P.S. 18	PreK-4	306	306	240	78.4	360		360
11	P.S. 23	PreK-5	731	731	565	77.3	424		424
	TOTAL	XXX				XXX			

B. PRIVATE SCHOOLS SERVING CHILDREN IN ELIGIBLE ATTENDANCE AREAS WHERE TITLE I ACTIVITIES WILL BE LOCATED

NAME OF PRIVATE SCHOOL	TOTAL NUMBER OF CHILDREN ENROLLED IN EACH SCHOOL LISTED IN COL. (1)	NUMBER OF CHILDREN ENROLLED WHO LIVE IN PROJECT AREAS	ESTIMATED NUMBER OF PARTICIPANTS	ELIGIBLE ATTENDANCE A BY NUMBER (FROM 9A1)
(1)	(2)	(3)	(4)	(5)
St. Cecilia School	750	283	90	Available on
Immaculate Conception	309	91	75	Print Out
Most Holy Trinity School	400	185	55	Sent To Stat
[illegible]th Jacob Elementary School	114	52	30	Education
[illegible] Shiva Jesode Hatorah	217	155	65	Department
[illegible] Rachel School For Girls	1,696	297	180	
[illegible]sh of Belz	238	51	20	
TOTAL	3,714	1,114	515	

THESE TOTALS MUST BE THE SAME AS THE [illegible] (PAGE 1).

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

1/V
1970

PROGRAM UNDER BILINGUAL EDUCATION ACT (Title VII, ESEA)
DEVELOPMENTAL OR ONE APPLICATION
OR
INITIAL PLAN
PROVISIONS AND ASSURANCES

THE APPLICANT HEREBY STATES AND GIVES ASSURANCE TO THE U. S. COMMISSIONER OF EDUCATION THAT:

1. The applicant has the necessary legal authority to apply for and receive the proposed grant. (Attach a copy of substantiating documents);

2. The activities and services for which assistance is sought under Title VII will be administered by or under the supervision of the applicant;

3. In carrying out the program proposed in the application, the cultural and educational resources of the area to be served will be utilized.

4. Funds under Title VII will be so used to supplement State and local funds expended for such educational purposes and, to the extent practical, increase the fiscal effort that would in the absence of such funds be made by the applicant for such educational purposes;

5. The applicant will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by, or pursuant to, the Regulations of the Department of Health, Education, and Welfare (45 CFR Part 80) issued pursuant to the title, to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in be denied the benefits of, or be otherwise subjected to discrimination under activity for which the applicant receives Federal financial assistance from the Department. (The assurance of compliance (HEW 441), or court order, or desegregation plan previously filed with the U. S. Office of Education in accordance with the Department of Health, Education, and Welfare regulations applies to this application);

6. The project will be operated in compliance with the Bilingual Education Act and with Regulations and other policies and administrative issuances by the Commissioner, including submission of such reports as may be required;

7. The project makes provisions for the participation of children enrolled in nonprofit private schools in the area to be served, to the extent consistent with the number of such children whose educational needs are of the type served by the project;

143
1970

8. All equipment acquired under Title VII of the Act will be used for the purposes specified in the approved project proposal, and such equipment will be subject to the administrative control of the recipient local educational agency.

9. These provisions and assurances will apply to the Developmental Grant and all subsequent grants, if the application and subsequent continuation requests are approved by the U. S. Office of Education.

I, Ralph T. Brando, do hereby certify that all of the facts, figures, and representations made in this application, including all exhibits and attachments hereto and hereby made a part of this application, are true and correct to the best of my knowledge and belief.

DATED: June 10 1970

Ralph T. Brando
(Legal name of applicant)

BY [signature]
(Signature of Authorized Representative)

Community Superintendent
(Representative's title)

NOTARY PUBLIC: Subscribed to before me this

June 10th 1970 Centralia, Illinois
City State

Notary Seal

SIGNATURE OF NOTARY PUBLIC [signature]

DATE NOTARY'S COMMISSION EXPIRES 3/31/73

JA 428

OE-

BUDGET BUREAU NO.
APPROVAL EXPIRES:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

PROGRAMS UNDER BILINGUAL EDUCATION ACT (Title VII, ESEA)
DEVELOPMENTAL GRANT APPLICATION
OR
INITIAL PLAN

PROVISIONS AND ASSURANCES

THE APPLICANT HEREBY STATES AND GIVES ASSURANCE TO THE U. S. COMMISSIONER OF EDUCATION THAT:

1. The applicant has the necessary legal authority to apply for and receive the proposed grant. (Attach a copy of substantiating documents);

2. The activities and services for which assistance is sought under Title VII will be administered by or under the supervision of the applicant;

3. In carrying out the program proposed in the application, the cultural and educational resources of the area to be served will be utilized.

4. Funds under Title VII will be so used to supplement State and local funds expended for such educational purposes and, to the extent practical, increase the fiscal effort that would in the absence of such funds be made by the applicant for such educational purposes;

5. The applicant will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by, or pursuant to, the Regulations of the Department of Health, Education, and Welfare (45 CFR Part 80) issued pursuant to the title, to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under activity for which the applicant receives Federal financial assistance from the Department. (The assurance of compliance (HEW 441), or court order, or desegregation plan previously filed with the U. S. Office of Education in accordance with the Department of Health, Education, and Welfare Regulations applies to this application);

[illegible]ject will be operated in compliance with the Bilingual Education [illegible] with Regulations and other policies and administrative issuances [illegible]missioner, including submission of such reports as may be [illegible];

[illegible]ject makes provisions for the participation of children enrolled [illegible]fit private schools in the area to be served, to the extent [illegible] with the number of such children whose educational needs are [illegible]e served by the project;

8. All equipment acquired under Title VII of the Act will be used for the purposes specified in the approved project proposal, and such equipment will be subject to the administrative control of the recipient local educational agency;

9. These provisions and assurances will apply to the Developmental Grant and all subsequent grants, if the application and subsequent continuation requests are approved by the U. S. Office of Education.

I, Ralph D. Bennett, do hereby certify that all of the facts, figures, and representations made in this application, including all exhibits and attachments hereto and hereby made a part of this application, are true and correct to the best of my knowledge and belief.

DATED: April 3, 1971

Signature of Brooklyn Key
(Legal name of applicant)

BY Ralph D. Bennett
(Signature of Authorized Representative)

Community Superintendent
(Representative's title)

President, Community School Board Brother Robert F. Lally

c. All equipment acquired under Title VII of the A.I. will be used for the purposes specified in the approved project proposal, and such equipment will be subject to the administrative control of the recipient local education agency;

d. These provisions and assurances will apply to the Davis-United grant and all subsequent grants, if the application and subsequent continuation requests are approved by the U.S. Office of Education.

I, WILLIAM A. ROGERS, do hereby certify that all of the facts, figures, and representations made in this application, including all exhibits and attachments hereto and hereby made a part of this application, are true and correct to the best of my knowledge and belief.

DATED 5-12-72

(Date of Application)

William A Rogers

(Signature of Authorized Official)

Community Superintendent

(Official Title)

(Signature witnessed by ... Notary Public)

[illegible] provisions of this assurance will apply to the [illegible] and all [illegible] thereto, to the application and response or [illegible] requests [illegible] by the United States Office of Education.

I, [illegible], do hereby certify that all of the facts, statements, and representations made in this application, including all exhibits and attachments submitted herewith as a part of this application, are true and correct to the best of my knowledge and belief.

[illegible]
(Date)

[illegible]
(Signature of Authorized Representative)

[illegible]
(Title of Authorized Representative)

(NONCONSTRUCTION PROGRAMS)
PART I

JA 432

2. APPLICANT'S APPLICATION NUMBER
11 A

3. FEDERAL GRANTOR AGENCY
U.S. Office of Education (Bilingual Education)

ORGANIZATIONAL UNIT
Application Control Center

ADMINISTRATIVE OFFICE
400 Maryland Avenue, SW

STREET ADDRESS - P.O. BOX
Washington | D.C. | 20202
CITY | STATE | ZIP CODE

4. APPLICANT NAME
NEW YORK CITY BOARD OF EDUCATION

DEPARTMENT DIVISION
COMMUNITY SCHOOL DISTRICT #14

STREET ADDRESS - P.O. BOX
310 SOUTH FIRST STREET

CITY | COUNTY
BROOKLYN, | KINGS

STATE | ZIP CODE
NEW YORK | 11211

5. DESCRIPTIVE NAME OF THE PROJECT
BILINGUAL (YIDDISH-ENGLISH) PROGRAM FOR NON-PUBLIC SCHOOLS

6. FEDERAL CATALOG NUMBER
13.403

7. FEDERAL FUNDING REQUESTED
$ 658,479.00

8. GRANTEE TYPE
____STATE, ____COUNTY, ____CITY, X OTHER (Specify) LOCAL EDUCATION AGENCY, NEW YORK C
BOARD OF EDUCATION
COMMUNITY SCHOOL DISTRICT #2

9. TYPE OF APPLICATION OR REQUEST
__X__ NEW GRANT, ____CONTINUATION, ____SUPPLEMENT, ____OTHER CHANGES (Specify)

10. TYPE OF ASSISTANCE
__X__ GRANT, ____LOAN, ____OTHER (Specify)

11. POPULATION DIRECTLY BENEFITING FROM THE PROJECT
760

12. CONGRESSIONAL DISTRICT
a. 14
b. 14

13. LENGTH OF PROJECT
10 months

14. BEGINNING DATE
September 1, 1974

15. DATE OF APPLICATION
February 15, 1974

16. THE APPLICANT CERTIFIES THAT TO THE BEST OF HIS KNOWLEDGE AND BELIEF THE DATA IN THIS APPLICATION ARE TRUE AND CORRECT, AND THAT HE WILL COMPLY WITH THE ATTACHED ASSURANCES IF HE RECEIVES THE GRANT.

TYPED NAME
WILLIAM A. ROGERS

TITLE
COMMUNITY SCHOOL SUPERINTENDENT

TELEPHONE NUMBER
AREA CODE: 212 | NUMBER: 963-4800 | EXTENSION:

SIGNATURE OF AUTHORIZED REPRESENTATIVE
William G. Rogers

For Federal Use Only

EW 6037

BOARD OF EDUCATION
CITY OF NEW YORK
COMMUNITY SCHOOL BOARD
DISTRICT 14
310 SOUTH 1st STREET
BROOKLYN, N. Y. 11211

387-2010
387-9094

MINUTES OF PUBLIC MEETING

DATE: July 24, 1974

TIME: 7:30 P.M.

PLACE: P.S.132

- -

Present: Brother Lally, Mr. Bonomo, Mr. Della Iacono, Mr. Reyes, Mrs. Rivera, Mr. Fredericks, Mr. Strohmenger, Rabbi Lefkowitz. Mr. Rogers, Community Superintendent.

Excused: Mr. Mizgalski.

1. The minutes of June Public Meeting were read and unanimously approved.

2. RESOLVED: That the Community School Board approve the Drug Prevention Program for 1974-75.

Mr. Strohmenger made a motion to table item #2, this was seconded. A roll call vote was taken. 4 votes were in favor, 4 votes were against. Since the motion did not pass, it was opened to the floor for discussion.
After some discussion Rabbi Lefkowitz made an amendment as follows:
RESOLVED: That the Community School Board #14 approve the Drug Prevention Program to accept funds for the year 1974-75 and the program should be revised within the guidelines of ASA, with a rider "That any additional programs before being submitted, should be brought before the Community School Board". The amended resolution was passed unanimously.

RESOLVED: That the Community School Board approve the acceptance of a 1974-75 Drug and Health Education Services Program from the State Education Department in the amount of $35,000.

After a brief clarification of this resolution, a vote was taken and unanimously approved.

RESOLVED: That the Community School Board authorize the application for a grant of $19,840 from the State Education Department for a Resource/Demonstration Health Center.

5. RESOLVED: That Article II, Section 2 of the Community School Board By-Laws be suspended for August.

6. RESOLVED: That the Community School Board approve the hiring of Josephine Quiñones as Executive Assistant to the Community School Board.

The previous three motions were seconded and unanimously appproved without discussion.

7. A discussion was had on the resolutions added to the agenda by Mr. LeRoy Fredericks. A roll call vote was taken. In Favor: Mr. Reyes, Mrs. Rivera, and Mr. Fredericks. Abstentions: Bro. Lally, Mr. Strohmenger, Mr. Bonomo, Rabbi Lefkowitz. The resolution did not carry.

Rabbi Lefkowitz moved to table the motion to be discussed at the next Executive Board meeting. It was seconded. A roll call vote was taken: In Favor: Bro. Lally, Mr. Bonomo, and Rabbi Lefkowitz. Opposed: Mrs. Rivera, Mr. Reyes, and Mr. Fredericks. Abstentions: Mr. Strohmenger. The motion to table failed.

Mr. Fredericks made a motion to reconsider the items as separate resolutions to be considered by the Community School Board.

Mr. Fredericks' resolution was opened for reconsideration. A roll call vote was taken. In Favor: Mrs. Rivera, Mr. Reyes, Mr. Fredericks. Opposed: Bro Lally, Mr. Bonomo, Rabbi Lefkowitz. Abstention: Mr. Strohmenger.

The motion failed.

8. RESOLUTION: That the Community School Board approve the acceptance of the grant for 1974-75 from the United States Office of Education in the amount of $467,231 for the Title VII Program.

After some discussion a roll call vote was taken. In Favor: Rabbi Lefkowitz, Mr. Bonomo, and Mr. Strohmenger. Abstentions: Bro. Lally, Mr. Fredericks, Mrs. Rivera and Mr. Reyes.

The resolution failed.

9. Superintendent's Report.
1. Summer Programs are in operation in all Elementary Schools except P.S.18. There are programs at I.S.318 and J.H.S.126.

2. Mr. Rogers reported that the Reading Scores in the District have improved for the second straight year.

3. Mr. Rogers reported on the Feasibility Study concerning the District Office. He noted that P.S.19 has become an issue and announced that 6th Grade has been moved out of P.S.19 and the portable classrooms have been demolished.

4. The Superintendent expressed hope that every teacher and paraprofessional who desires to return in September will have a job.

5. There has been a 50% drop in students' suspensions last year because of the use of Interim Classrooms.

10. A motion was made to reconsider the item to approve the Title VII program. The motion was seconded. The vote was as follows: In Favor: Bro Lally, Mr. Strohbenger, Mr. Bonomo, Mr. Lefkowitz. Opposed: Mrs. Rivera, Mr. Fredericks. Abstentions: Mr. Reyes. Since the vote was not unanimous, the motion failed and was not reconsidered.

11. President's Report:
Bro. Lally stated that the parents of P.S.122 must be notified that the Early Childhood Center possibly might not be serviced until the Title VII item is resolved, if at all.

12. There were no Committee Reports.

13. New Business
St. Francis Prep. was discussed. Mr. Rogers hopes to utilize the building for community purposes as well as for a meaningful educational program.

A request was made for window guards for the Meserole Ave. School. A question was asked as to why there are so few evening centers in Greenpoint. Mr. Rogers replied that there are Evening Centers at P.S.59, I.S.318 and J.H.S.126. There are no funds for more centers.

A request was made for a list of teachers holding Summer and after-school jobs to be posted in each school. Mr. Rogers said that this was a Union matter.

There being no further business, the meeting was adjourned at 9:20 P.M.

Approved: Sept. 23, 1974

JA 436

BROTHER ROBERT F. LALLY, PRESIDENT
[illegible] STROHMENGER, 1ST VICE-PRESIDENT
[illegible] DELLA IACONO, 2ND VICE-PRESIDENT
[illegible] SECRETARY
[illegible] TREASURER
[illegible]
[illegible] MIZGALSKI
[illegible] REYES
[illegible]
[illegible] BONOMO
[illegible] SUPERINTENDENT

BOARD OF EDUCATION
CITY OF NEW YORK
COMMUNITY SCHOOL BOARD
DISTRICT 14
310 SOUTH 1ST STREET
BROOKLYN, N. Y. 11211

387-9004

MINUTES OF SPECIAL PUBLIC MEETING

DATE: September 6, 1974

TIME: 3:30 PM

PLACE: I.S. 49

PRESENT: Bro. Lally, Mr. Reyes, Mr. Lefkowitz, Mr. Bonomo, Mr. Della Iacono, Mr. Fredericks, Mr. Mizgalski.

ABSENT: Mrs. Rivera, Mr. Strohmenger.

The meeting was called to order at 3:35 PM.

The only item considered at this meeting was:

RESOLVED: That the Community School Board # 14 accept a Title VII grant in the amount of $467,231.00 to implement the Bilingual Early Childhood Center Program in District 14 for Public and Non-Public Schools.

During the discussion, it was explained that the following non-public schools would share part of the Title VII Funds:

Our Saviour
Sts. Peter and Paul
Beth Rachel
United Talmudical Academy

After some further discussion, a roll call vote was taken and the resolution was approved unanimously.

The meeting was adjourned at 3:45 PM.

Approved: Sept. 23, 1974

OFFICE OF REIMBURSABLE PROGRAMS

SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

ADDITIONAL INFORMATION AND AMENDMENTS TO DISTRICT 14's TITLE VII PROJECT APPLICATION

PARAPROFESSIONAL PERSONNEL

1. Will be recruited and hired by the director of District 14's personnel department in accordance with all established Board of Education regulations pertaining to the employment of paraprofessionals.

2. Will be under the direct supervision of and accountable to District 14 supervisory personnel, in consultation with the project coordinator and the professional resource teachers assigned to the program.

3. Will receive specialized in-service training from the professional resource teachers, so as to enable them to develop an acceptable level of proficiency in one of the following subject areas: a) reading and language arts, b) mathematics, c) social studies and science, d) cultural heritage. In so far as paraprofessionals will be delivering specific instructional services, they will be trained jointly according to the subject of their specialty.

4. Will not be assigned to one classroom. Paraprofessionals will move from class to class within each site delivering specific services, on a regularly scheduled basis.

5. The feasibility of having paraprofessionals move from site to site will be explored.

6. Those paraprofessionals specializing in cultural enrichment instruction will be moving from site to site on a regularly scheduled basis.

YIDDISH CULTURAL ENRICHMENT

The Yiddish cultural enrichment instruction, referred to in the original project proposal for the Hebrew Day School component, has been eliminated and replaced by American and Hispanic cultural enrichment. However, some Yiddish culture will be taught as part of the overall cultural enrichment curriculum of the program.

YIDDISH INSTRUCTION

All instruction that was to take place exclusively in Yiddish, as outlined in the original project proposal, has either been eliminated or been replaced by Yiddish-English bilingual instruction.

YIDDISH MATERIALS

The original intention to purchase some exclusively Yiddish language instructional materials has been discarded. It is understood that the development and purchase of additional Yiddish-English bilingual instructional materials will best serve the needs of the Title VII program.

PARENT INVOLVEMENT

Family Workers/Family Assistants will work together as a unit under the direct supervison of the professional personnel assigned to the program. Wherever feasible, activities involving parent participation for all five sites, will take place at one central location. The original project application contains a separate parent involvement component outlining specific objectives and activities.

PARENT ADVISORY COMMITTEE

A district-wide parent advisory committee made up predominantly of parents of project participants, will meet formally during the month of July to discuss the various modifications in the project that have been undertaken subsequent to the time that the proposal was originally submitted. It is duly noted, that the Local Education Agency has continuously consulted with those individuals representing the interests of the various public and non-public schools involved in the proposed Title VII program as it proceeded through the period of negotiations. An up-to-date list of Parent Advisory Committee members and the minutes of the next meeting will be forwarded as soon as possible.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------x

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et, al.,

Plaintiffs,

-against-

THE COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, et, al.,

-and-

TERREL H. BELL, INDIVIDUALLY AND IN HIS CAPACITY AS COMMISSIONER OF THE UNITED STATES OFFICE OF EDUCATION OF THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE,

Defendants.

----------x

74 Civ. 783 (JBW)

AFFIDAVIT OF PATRICIA VERGATA

STATE OF NEW YORK)
:ss.:
COUNTY OF KINGS)

PATRICIA VERGATA, being duly sworn, deposes and says:

1. I am an attorney for plaintiffs herein, and I make this affidavit in support of plaintiffs' cross motion to compel discovery of the actual and accurate number of children of limited English-speaking ability enrolled in both the public and non-profit private schools in Community School District No. 14. Plaintiffs make this motion so that the comparable extent of participation of public school and parochial school children in the Title VII program can be clearly and precisely determined, since the extent of such participation in each sector must be related to the total need for participation in each sector.

2. Plaintiffs have sought this information from defendants to no avail. See Affidavit of Ira Bezoza dated April 15, 1975, accompanying Plaintiffs' Cross Motion. Plaintiffs reiterated their request for needs assessment data at the deposition on April 9th of Sister Filippa who stated that she had participated in such an assessment in March, 1975; defendants' counsel overrode Sister Filippa's response to this request, stating that defendants would consider supplying this information. Defendants' unsubstantiated responses, the contradictory testimony of parochial school administrators and the disparity of comparable estimates of the educational need of the children of District 14 have all given a clouded and inconclusive

picture of the central issue of Title VII participation and of this case.

3. On Friday, April 11, 1975, this central issue was further confused at a public hearing on the submission of an application for Title VII funds for the 1975-76 school year, held at 3:30 in the afternoon at I.S. 49, 233 Grahan Avenue. Members of the defendant School Board and defendant Superintendent Rogers' representative Norman Spiegel were present at the hearing. A summary of the tentative application was distributed to the public and is attached to this affidavit as Exhibit "A".

4. Although this summary contains no information about the manner and method of identification of target children and need nor the exact number of such children to be served at each public and parochial school site, members of the public attempted to elicit such information from the members of the Board. A Board member, Ms. Luisa Rivera, stated that she and the other minority members of the Board had not received any copies of the tentative application and had no information. The Chairman of the Board, Brother Robert F. Lally, directed all questions to Mr. Spiegel.

5. Mr. Spiegel responded that the District intended to have children participate as follows:

Public Schools		Parochial Schools	
P.S. 16	112	Our Savior	357
P.S. 17	113	Sts. Peter & Paul	320
P.S. 19	113	Beth Rachel	41
P.S. 84	113	Jesoda Hatorah	60
P.S. 196	113	Kehilath Yaakov	103
P.S. 250	114		
	678		881

He made no response to a question from minority Board member Mr. Leroy Fredericks about why this pupil participation information could not have been included in the publicly-distributed summary.

6. In response to questions about identification of need, Mr. Spiegel stated that the District itself had devised a "picture test". He stated, however, that as to public school children, the "picture test" had only been given to selected students, not to the entire eligible public school population. He stated that the selection - out had been carried out by classroom teachers but did not state whether and what instructions had been received by such teachers for selecting-out nor what criteria were employed in the selection-out process.

He did not state how many public school children had been selected-out not to receive the "picture test". He stated that for those remaining, a Bilingual Resource teacher, not the classroom teacher, administered the "picture test." He did not state the results of this selective testing.

7. He stated that for the Catholic Parochial schools, the "picture test" had been administered in each school. Sister Filippa had previously stated on April 9th that to her knowledge the March, 1975 test was administered to every child in all the Catholic parochial schools that had previously submitted a needs assessment.

8. For the Hebrew Day Schools, however, Mr. Spiegel stated that the March, 1975, test had been actually administered only in the three schools listed in the summary. He stated that he did not know the names of the principals who were responsible for administering the test and he did not know how or to whom it was administered. When asked how it could be determined what proportion of needy children were being served if a total number of needy children was not determined, he replied that it had been "certified", he did not say by whom, that the need in the other Hebrew Day Schools was "consistent" with the need in the three surveyed schools. He did not state what the results actually were in the three schools.

9. Plaintiffs submit that this latest attempt by the District to determine the actual number of children with limited English-speaking ability in the public and parochial schools of District 14 has not only been ill-administered but has been administered in an uneven and unequal manner and cannot possibly serve as a basis for determining proportionate participation of public and parochial school children. Plaintiffs' submit that the only method for determining accurately and precisely the number of children with limited English-speaking ability in District 14 is the administration evenly and equally on a District-wide basis of an instrument professionally designed and administered to identify and measure language disability.

10. Defendants have already recognized the need for such an assessment in Aspira of New York Inc. v. Board of Education of the City of New York 72 Civ. 4002 (S.D.N.Y. 1974). Plaintiffs in ASPIRA raised the inadequacy and inaccuracy of assessment of language disability as a crucial issue and defendants agreed in Judge Frankel's order that "an improved method for

accurately and systematically indentifying and classifying"* children with language disabilities would be developed, "designed, among other thin to identify those children whose English language deficiencies prevent them from effectively participating in the learning process... Such improved method shall identify the childr n according to their ability to speak, read, write and comprehend Engl sh... The evaluation of a child's reading ability shall include an assessment of his/her reading skill, including reading readiness skills where appropriate, in bo h English and Spanish." It is plaintiffs understanding that this method has in fact been completely developed by defendant Anker and could be administered to the children of District 14.

11. Plaintiffs regret the press of limited time in which to act. However, plaintiffs were unaware until Friday April 9th of the continuing extent of the inadequacy of the assessment of language disability in the public and parochial school sectors of District 14. Apart from defendants' intransigence in responding to plaintiffs' interrogatories, defendants again failed to open up the program application process to the public in the community so that this question might have been raised weeks ago. Defendants failed again, despite the fact that they were at the bar on this very issue, to hold public meetings with a community-wide advisory committee as clearly required by law, 45 C.F.R. §123.16. Mr. Spiegel stated that one non-public meeting was held in February, with only parents of children already participating in the program. Board member Ms. Rivera stated that she had been told by Hispanic parents attending this meeting that the 1975-76 application was not even mentioned and asked Mr. Spiegel to respond to this. He made no response. Plaintiffs' interrogatories on the subject of current preparation were objected to by defendants. See Responses, paragraph 25. Defendants' counsel stated as late as April 7th that she did not know even if a written application was being prepared. Defendants reiterated their objection to giving plaintiffs any information on the current application process on March

* Par. 1, p. 2. A copy of the consent decree is attached as Exhibit V to the affidavit of Ira S. Bezoza, dated September 23, 1974

26th despite Plaintiffs' attempts to resolve this matter. See Affidavit of Ira S. Bezoza, dated April 15, 1975, Exhibit "A". Defendants' counsel has not provided plaintiffs with the Catholic School results requested on April 9th. Defendants' counsel has again refused another request made today to provide plaintiffs with the application for 1975-76. Defendants' intractable refusal to provide Plaintiffs with this information and continued refusal to open up the application process to the Community has prevented plaintiffs from acting until this time.

12. Plaintiffs request this Court to Order the immediate administration in District 14 of the language survey developed by the defendants pursuant to Aspira to every child enrolled in the public and parochial schools located in District 14 to determine the total number of children of limited English-speaking ability. Since the final application for Title VII funds must be submitted by May 1, 1975 this survey would have to be done and results assessed by April 28, 1975 unless the May 1st deadline can be extended by defendant BELL and the UNITED STATES OFFICE OF EDUCATION.

PATRICIA VERGATA

Sworn to before me this
15th day of April, 1975.

NOTARY PUBLIC

RICHARD S. PANEBIANCO
NOTARY PUBLIC, STATE OF NEW YORK
No. 24-5005520
Qualified in Kings County
Commission Expires March 30, 1976

DISTRICT 14

TENTATIVE PROGRAM

TITLE VII 1975-1976

Exhibit A

The tentative 1975-76 Title VII program is designed to service approximately 1550 public and non-public school children of limited English speaking ability. The program, when approved, will be located in 6 public and 5 non-public school sites.

Tentative Sites

P. S. 16	Our Saviour School
P.S. 17	Sts. Peter & Paul School
P. S. 19	Beth Rachel School
P. S. 84	Jesod Hatorah School
P.S. 196	Kehilath Yaakov School
P.S. 250	

The program is designed to offer children of limited-English speaking ability a total curriculum including such aspects as instruction in English as a Second Language, all elements of a Spanish/Yiddish Language Arts progra and dominant language instruction in content areas such as mathematics, science and social studies. The program will also include a cultural heritage component to enhance pupils self image, and expose pupil participants to groups with diverse cultural and ethnic backgrounds.

The application for this program also includes a staff development training program jointly developed by the community school district and an institution of higher education. Professional and paraprofessional staff in the program will be registered in B.S. and/or M.S. degree programs. The cost of this training is included in the application being submitted by the institution of higher education.

* * * * * * * * * * *

El programa tentativo de 1975-76 bajo el Titulo VII está diseñado para servir aproximadamente 1550 niños de escuelas públicas y privadas, que tengan habilidad limitada en Inglés. El programa, cuando sea aprobado, estará localizado en 6 escuelas públicas y en 5 escuelas privadas.

Sitio Tentativos

E.P. 16	Escuela Our Saviour
E.P. 17	Escuela San Peter & Paul
E.P. 19	Escuela Beth Rachel
E.P. 84	Escuela Jesoda Hatorah
E.P. 196	Escuela Kehilath Yaako.
E.P. 250	

El programa está diseñado para ofrecer a niños, con limitada habilidad al hablar Inglés un currículo total incluyendo aspectos de instrucción como Inglés como Segundo Lenguaje, todos los elementos de un Programas de Artes del, Lenguaje Español/Judio, e instrucción en el lenguaje dominante en asignaturas de contenido como matemáticas, ciencia y estudio sociales. El programa también incluirá un componente de herencia cultural para aumentar la propia estimación del discípulo, y exponer a los niños participantes a grupos de diferentes trasfondos etnicos y culturales.

La solicitud para este programa también incluye un programa de entrenamiento para desarrollo del personal, conjuntamente planeado por el Distrito Escolar y una Institución de Educación Avanzada. Personal profesional y para-profesional en el programa serán matriculados en estudios para el Bachillerato y Maestria en Ciencias. El costo de este entrenamiento esta incluído en la solicitud que la Institución de Educación Avanzada está sometiendo.

"A-11

TENTATIVE BUDGET TITLE VII 1975-76

PERSONNEL			
Pedagogical			
Project Director	1 annual @		24,980
Specialists			
English, Second Language	2 annual	(@ $15,175)	30,350
Spanish, Second Language	8 annual	(@ $15,175)	121,400
Yiddish, Second Language	1 annual	(@ $15,175)	15,175
8% anticipated cost rise			15,352
		SUB TOTAL	$ 207,257
Administrative			
School Secretary	1 annual @		13,250
8% anticipated cost rise			1,060
		SUB TOTAL	14,310
PERSONNEL			
Paraprofessional			
Educational Assistants/Teacher Aides			
18 X 224 days X 5½ Hours =	22,176 hours	@ $4.52=	100,235
34 X 224 days X 5 Hours =	38,080 hours	@ $4.21=	160,316
Family Assistants/Family Workers			
6 X 224 days X 5½ Hours =	7,392 hours	@ $4.52=	33,411
4 X 224 days X 5 Hours =	4,480 hours	@ $4.21=	18,860
1 X 224 days X 3 Hours =	672 hours	@ $4.21=	2,829
8% anticipated cost rise			25,252
		SUB TOTAL	$ 340,903

FRINGE BENEFITS

Retirement Pedagogical		
22.52 X 207,257		46,674
Social Security		
5.85 X 525,503		30,741
Health		
75 X $360		27,000
8% anticipated cost rise		2,160
Welfare		
13 X $370		4,810
62 X $340		21,080
8% anticipated cost rise		2,071
	SUB TOTAL	$ 134,536

OTHER THAN PERSONAL SERVICES

Textbooks 1,559 pupils @ $10.00	15,590
Instructional Supplies 1,559 pupils @ 5.00	7,795
Audio Visual Supplies 1,559 pupils @ 3.00	4,677
Clerical/Duplicating Supplies 1,559 pupils @ 2.00	3,118
Telephone 1 X 12 months X $50	600
Parent Snacks 11 sites	3,000
Parent Involvement	3,000
Carfare (Public Transportation)	500
Buses (In city trips) 11 sites X 5 trips X $110 =	6,050
8% anticipated cost rise	3,546
SUB TOTAL	$ 47,876

TENTATIVE BUDGET TITLE VII 1975-76

Evaluation Services - per diem		
75 days X $100 per day		7,500
	SUB TOTAL	7,500
Direct Cost of Program		752,382
Indirect Cost of Program (6.5%)		48,904
Total Cost of Program	$	801,286

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTE OF PUBLIC SCHOOL 19, et. al., Plaintiffs, -against- COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, et al., -and- TERREL H. BELL, individually and as Commissioner of the United States Office of Education of the Department of Health, Education and Welfare, Defendants.	74 CIV. 783 (J.B.W.) GENERAL COURT RULE 9(g) STATEMENT

Pursuant to Rule 9(g) of the General Rules of this Court, plaintiffs, opposing the municipal defendants' motion for summary judgment, submit this statement of material facts as to which plaintiffs contend there is a genuine issue to be tried.

With respect to (i) as set forth in defendants 9(g) statement:

1. Plaintiffs dispute ¶¶ 1, 11, 14, 15 as to statements that the parochial school component, both Spanish-English and Yiddish-English, was submitted as part of a fifth and final year of a Title VII project.

2. Plaintiffs dispute ¶ 12 to the extent that the Spanish-English and Yiddish-English components were submitted as two distinct applications.

3. Plaintiffs dispute ¶¶ 16, 17 and 18 that the statistics compiled the incidence of English-language handicapped children, see Aspira of City of New York v. Board of Education, 72 Civ. 4002 (S.D.N.Y. 1974). Further, plaintiffs dispute that the defendants relied upon said compilations in the allocation of Title VII services and the submission of the 1974-1975 Title VII grant application.

4. Plaintiff dispute ¶¶ 19, 20, 21 and 22 that language data survey techniques were utilized in the non-public schools and that the figures of Yiddish dominant, English-language handicapped children were obtained as a result of any language data survey or any language data survey utilizing techniques similar to those employed in the public schools.

5. Plaintiffs dispute ¶ 23 that the Yiddish-English component is one of the first of its kind in the country.

6. Plaintiffs dispute ¶¶ 24 and 27 that the participation in the Title VII program has been the impetus for a dialogue between the public and non-public schools and that disruption of the program threatens the dialogue between public and non-public school officials.

7. Plaintiffs dispute ¶ 25 that services have been provided in accordance with the allocations by the Office of Education and the federal regulations underthe Title VII program.

8. Plaintiffs dispute ¶ 26 that the disruption is detrimental to the education of the children in the affected schools since plaintiffs have not received information as to the nature of education of children in the Title VII program.

9. Plaintiffs dispute ¶¶ 28 and 29 and deny knowledge of the substance of this program prior to November, 1974.

With respect to (ii) of defendants' 9(g) statement,

the following facts are in dispute:

10. Plaintiffs dispute ¶¶ 30, 31, 32 and 33 that the 1974-1975 Title VII application was submitted upon prior participation and advice of the parents of the affected children.

11. Plaintiffs dispute ¶ 34 that a single Parents' Advisory Committee has been established in accordance with the federal regulations, 45 CFR §123.16.

12. Plaintiffs dispute ¶ 35 that approximately $330,000 has been allocated for eligible children in the non-public schools of the district.

13. Plaintiffs dispute ¶ 36 that District 14 has expended considerable time and effort in consultation with parent advisory groups, the New York City Board of Education, the New York State Office of Education and the Office of Education (H.E.W. in designing and implementing the current Title VII project.

With respect to (ii) (parent and community participation) plaintiffs submit the following facts are not in dispute:

14. No single District-wide advisory committee participated in or approved the Title VII application for the 1974-1975 school year prior to submission.

15. No parent advisory committee representing the parents of children at P.S. 122, Sts. Peter and Paul and Our Savior was established, participated in or approved the Title VII application for the 1974-1975 school year.

16. The parent advisory committee representing Yiddish-dominant children was an ad-hoc committee established by concerned parents not by Community School Board officials.

17. No single District-wide parents' advisory committee was established in July 1974 to review the modifications of the Title VII program.

. No single District-wide parents' advisory committee has been established to review the operation of the 1974-1975 program or participate in and consult with District officials prior to the submission of the 1975-1976 Title VII grant application. The parent advisory committee that has been established only represents parents of children from Our Savior, P.S. 122 and the Hebrew Day Schools. It does not have District wide representation. Even Sts. Peter and Paul is conspicuously absent.

Respectfully submitted

RICHARD S. PANEBIANCO, ESQ.
IRA S. BEZOZA
PATRICIA VERGATA
WILLIAMSBURG LEGAL SERVICES
260 BROADWAY
BROOKLYN, NEW YORK 11211

KENNETH KIMERLING
HERBERT TEITLEBAUM
PUERTO RICAN LEGAL DEFENSE FUND
95 MADISON AVENUE
NEW YORK, NEW YORK 10016

JA 452-/

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------X

PARENTS COMMITTEE OF PUBLIC SCHOOL #9, et al.,

Plaintiffs,

-against- 74-C-783

COMMUNITY SCHOOL BOARD #14, et al.,

Defendants.

----------X

United States Courthouse
Brooklyn, New York

April 18, 1975
9:30 o'clock a.m.

B e f o r e :

HON. JACK B. WEINSTEIN,

U.S.D.J.

HENRY R. SHAPIRO
OFFICIAL COURT REPORTER

Appearances:

IRA BEZOZA, ESQ.
PATRICIA VERGATA, ESQ.
KENNETH KIMERLING, ESQ.
Attorneys for Plaintiff

MS. ROSEMARIE CARROLL
Attorney for Corporation Council

DAVID G. TRAGER
United States Attorney
Eastern District of New York

By: CYRIL HYMAN
Assistant United States Attorney

MS. ANNETTA BLUM
Regional Attorney
Department of Health, Education & Welfare

* * *

MR. BEZOZA: We would like to thank the Court for hearing us today.

THE COURT: Do you want a record of this?

MR. BEZOZA: Yes.

THE COURT: I am happy to see you at any time.

MR. HYMAN: Does that include Government counsel?

THE COURT: Of course.

MR. BEZOZA: Presently there are two motions before the Court. There is plaintiff's motion to enforce the August 20th, 1974 Order of this Court which was to provide compensatory remedial education to the students of P.S. 19 who had been on split sessions.

The second motion is the defendant's motion for summary judgment on the plaintiff's fourth, fifth and sixth claims for relief.

Plaintiff has cross-moved on that motion asking the Court to deny summary judgment on the fourth and fifth claim which pertain to the disproportioning of parochial school children.

THE COURT: As I understand, more time is sought and the only emergency is what happens

between now and May 1st.

MR. BEZOZA: I am getting to that point.

We wish the Court to decide the summary judgment on our sixth claim of action for relief, which pertains to the Community Advisory Committee which is supposed to be set up under the Federal regulations, and our motion for this Court to compel the defendants to conduct the validated needs assessments in both the parochial schools and the public schools, as set up by the New York City Board of Education.

THE COURT: As I understand the emergency, the applications have to be in by May 1st?

MR. BAZOZA: Correct.

THE COURT: Have applications been made for more money?

MS. CARROLL: The application has not yet been filed, has not yet been approved by a vote of the Community School.

THE COURT: Do you know what is in the application?

MR. BAZOZA: We have not seen the application.

THE COURT: Why don't you show him the application?

MS. CARROLL: They have attended a meeting in which it was discussed.

THE COURT: Let them see a copy of it. Maybe they will be happy.

MS. CARROLL: It is in a stage of modification. I had a conference with Mr. Rogers the other day and certain suggestions were made by plaintiff's counsel.

THE COURT: It is April 18th now.

MS. CARROLL: Also the application can be revised anytime in between May and June.

MR. HYMAN: That is not a general statement.

THE COURT: Let us not open things up here. Let them see what you are doing so they can do something in time to get something done. I do not want this around for another year. We could not do anything last August because it was too late. Now you are getting under the wire and they still do not know what is going on. I do not understand it. I want them brought in on this thing. I want you to show them all the documents, all the files, all the modifications and open it up so if there is something that needs to be done we can do it in time. If you

do not, and I get the impression that you are delaying, your client will be open to contempt. I want this thing resolved in a free and open way.

MS. CARROLL: The proposal was not complete. It is still being modified.

THE COURT: Don't you have some documents? I cannot believe that on April 18th you do not have something ready to go.

MS. CARROLL: It is our position, your Honor, that the Title 7 grant for next year is not part of this lawsuit in any event.

THE COURT: I do not agree.

MS. CARROLL: We have included P.S. 19 - -

THE COURT: You have done nothing that I know of since August. Part of the reason was that there was no money available and the program was set.

MS. CARROLL: That is not true. We set up a compensatory and remedial plan at the school. We supplemented the staff, we put in more personnel. The new school will be ready for occupancy on June 1st. There will no longer be split sessions. It will go into effect on

June 1st. The contention that nothing has begun is untenable. I think the defendants have been moving forward providing compensatory remedial education. They have moved forward on the new school and presumably this group of children will be included in the services under the decree.

THE COURT: The new school does not help here. What we are talking about is compensation for the past split sessions.

What do you want?

MR. BEZOZA: At this point it is not just that the plaintiffs want to see the proposal. Under the Federal regulations the defendants are mandated to establish community advisory groups so that all people - -

THE COURT: If you have a community advisory group set up between now and May 1st you are not going to get anyplace. It is now April 18th. There are ten working days or less between now and May 1st.

Do you want to fiddle around with a suit and an appeal or do you want to get something for these kids?

MR. BEZOZA: We feel by an Order of this Court we can establish a community group and they can have a few days - -

THE COURT: You are not going to get a community advisory group. We are going to get problems. Take what they have, discuss it with your people, and get back and see what you can do.

MR. BEZOZA: The same problem that arose last year in establishing this Title 7 program is occurring again this year. The defendants do not permit the public to view the program as required.

THE COURT: Take the material.

MR. BEZOZA: We would like more than the plaintiffs to look at it. We would like an established community advisory group.

THE COURT: Do whatever you want to in consulting with your people. Set up an advisory group, you have got to have a Local School Board meeting, then they have to discuss it, then there is going to be notices and by the time you will get around to it it will be next August again.

MR. BEZOZA: If they give notice in two

days - - I do not believe it, not on April 18th. Besides, you have a defendant which obviously is dragging its heels.

MS. CARROLL: The defendant is not dragging its heels.

THE COURT: I have the distinct impression that you have not opened the matter up the way I have asked you to. This thing has been bouncing back and forth. I want you to be free and open on this thing so we can get it settled. I do not see why on April 18th I have to be faced with an emergency.

MS. CARROLL: The defendants had a public meeting on the question and they do have representatives for P.S. 19.

THE COURT: Did you show them all the papers?

MS. CARROLL: All the figures with respect to the entire program were aired at the meeting.

THE COURT: Were you there?

MS. CARROLL: I wasn't there.

THE COURT: They must have files on it. Open up the files and let them talk to everybody.

MR. BEZOZA: Can we turn to the second

point on the crossmotion?

THE COURT: Your request that the Court order the School Board to set up a community advisory committee is denied as being too late to effect the May 1st application. Your request that you be shown all files directly and indirectly relating to the May 1st application and all revisions is granted and you are to be shown that material today, if you want it.

You will be permitted to make copies from any of the material and you can discuss it, if you wish to do so, but I do not want you taking the stuff out of context and inflamming the community.

MR. BEZOZA: We do not do that, your Honor.

THE COURT: What is the next application?

MR. BEZOZA: The next application is for the defendants to conduct validated needs assessments in both the parochial and public schools.

THE COURT: For the May 1st application?

MR. BEZOZA: Yes.

THE COURT: How can they do that?

MR. BEZOZA: They can begin to do it

promptly and then they can review it and then they can make --

THE COURT: Do you need that in order to pass on the application?

MR. HYMAN: What happens, the School Board certifies the need to the Federal Government, the raw data is given to HEW. If they certify whatever the Local Board adopts, that is all we need.

THE COURT: Are you going to be certifying the need?

MS. CARROLL: We conducted a survey. The survey consisted of a test that was uniform for the public school and the non-public schools and we have the results of that test.

THE COURT: Show it to them.

Have you shown them the results?

MS. CARROLL: Not yet. I think we have just about completed.

THE COURT: Show them everything.

MR. BEZOZA: First off, we asked questions at the public hearing about the needs assessment, Mr. Spiegel said it was not conducted in all the Hebrew day schools.

THE COURT: Why don't you look at the papers?

MR. BEZOZA: We have already been told that.

THE COURT: I do not care what you have been told. Look at the documents.

MR. BEZOZA: The further question that we claim is that the needs assessment that they have been conducting is not valid.

THE COURT: Do you want to get their application denied?

MR. BEZOZA: No, but I wish to have an appropriate allocation of funds for this district.

THE COURT: Why do you make the statement without knowing what is in the record? You obviously do not.

MR. BEZOZA: We have seen the record from last year.

THE COURT: You have not seen the one from this year.

MS. CARROLL: I have asked your Honor that the needs assessment be expanded to all the parochial schools, because I knew Mr. Bezoza had anticipated that sort of a situation, so I

instructed it be done. That's why it was not completed. It was completed for the Catholic parochial schools and those aesthetic schools that were in the grant.

I asked that they be conducted as to those not included in the grant to have a total sample.

THE COURT: Has that been completed?

MS. CARROLL: I will have to call today.

THE COURT: All right.

MR. BEZOZA: I hate to belabor the point, that needs assessment was not conducted. It was given to all the children in the Catholic schools but not to all the public schools. They weeded out certain children and gave the test to only a few.

MS. CARROLL: I will provide all the documents.

THE COURT: I do not care what Mr. Spiegel said. I am not interested in that kind of distilled hearsay.

What is the point of making a public record when we have an HEW representative here saying that the application is invalid? That

is what you are saying. You want the whole thing denied for the whole district?

MR. BEZOZA: No, I don't.

THE COURT: Why don't you look at the documents first and see what you can work out before you publicly take a position that will destroy your client and everyone else?

MR. BEZOZA: We may look at the documents and return quickly - - renew this motion?

THE COURT: I will be here. I will be delighted to see you. Look at the documents beginning this afternoon. We know we have a May 1st deadline. I will do what I can to help you. I get the feeling that nobody is working with anyone else. I do not understand it.

MS. CARROLL: I do not understand the question, "Nobody is working with anyone else."

THE COURT: I constantly get these complaints that nobody shows anyone anything in the district. What is the big secret?

MS. CARROLL: I told Mr. Bezoza that I would give him the survey as soon as it is completed.

THE COURT: Give him what you have and

let him have the rest of it when you can. There shouldn't be this constant application to the court for help in discovery and the like in a case like this.

MS. CARROLL: I shouldn't have to apply to the court to get an adjournment.

THE COURT: We have a May 1st deadline.

MR. BEZOZA: May we set the dates on the other motions?

THE COURT: I am going to give them the time, except as it applies to the problem of May 1st. I do not see any reason why counsel should be pressed.

MR. BEZOZA: May we have May 9th on the motion to - -

THE COURT: All the motions will be on for May 9th. If you need any help on the May 1st problem I will see you immediately.

MR. HYMAN: The Government will make a motion returnable on May 9th.

THE COURT: Delighted to have your motion.

MR. HYMAN: This is the first time I did something on papers.

MR. BEZOZA: We forced you into that motion - -

THE COURT: Thank you.

Whatever I said was not meant as criticism of any counsel, person or entity.

Thank you.

* * *

CIS:CH:sm
F.#742308

Notice of Motion

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et al.,

Plaintiffs,

-against-

THE COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, et al.,

and

TERRELL H. BELL, INDIVIDUALLY AND IN HIS CAPACITY AS COMMISSIONER OF THE UNITED STATES OFFICE OF EDUCATION OF THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE,

Defendants.

NOTICE OF MOTION

Civil Action

No. 73 C 783

S I R S:

PLEASE TAKE NOTICE that upon the annexed affidavit of ELIZABETH KEESEE, sworn to the 9th day of April, 1975, and upon the statement of material facts as to which there is no genuine issue to be tried, and upon all the pleadings and proceedings heretofore had herein, the undersigned will move this Court before the Honorable Jack B. Weinstein, Courtroom No. 10, to be held at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York, on the 9th day of May, 1975, at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard for an order pursuant to Rule 56 of the Federal Rules of Civil Procedure granting the Federal defendant's motion for summary judgment against the plaintiff, or, in the alternative, granting the Federal defendant's 12(b) motion to dismiss the complaint.

Dated: Brooklyn, New York
April 22nd, 1975

DAVID G. TRAGER
United States Attorney
Eastern District of New York
Attorney for Federal Defendant
225 Cadman Plaza East
Brooklyn, New York 11201

By: Cyril Hyman
CYRIL HYMAN
Assistant U. S. Attorney

TO:

RICHARD S. PANEBIANCO, ESQ.
IRA S. BEZOZA and PATRICIA VERGATA
OF COUNSEL
Williamsburgh Neighborhood Legal Services
260 Broadway
Brooklyn, New York 11211

HERBERT TEITELBAUM
KENNETH KIMERLING
Puerto Rican Legal Defense & Education Fund
815 Second Avenue
New York, New York 10017

Attorneys for Plaintiffs

W. BERNARD RICHLAND
Corporation Counsel
Law Department
Municipal Building
New York, New York 10007
By: Rosemary Carroll

Attorney for Municipal Defendants

JA 455

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et al.,

Plaintiffs,

-against-

THE COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, et al.,

and

TERRELL H. BELL, INDIVIDUALLY AND IN HIS CAPACITY AS COMMISSIONER OF THE UNITED STATES OFFICE OF EDUCATION OF THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE,

Defendants.

AFFIDAVIT

Civil Action No. 73 C 783

DISTRICT OF COLUMBIA) ss:

ELIZABETH KEESEE, being duly sworn, deposes and says:

1. I am the Chief, Eastern Area Programs, Division of Bilingual Education, Office of Education, Department of Health, Education and Welfare.

2. My duties as Chief, Eastern Area Operations, include the review of applications for grants under Title VII of the Elementary and Secondary Education Act, 20 U.S.C. 880b et seq.

3. Title VII of the Elementary and Secondary Education Act of 1965 established a grant program for the establishment of demonstration projects designed to increase the capability of local educational agencies to respond to the special educational needs of children of limited English-speaking ability.

4. Community School District 14 of the City of New York has received grants under Title VII commencing with the school year 1970-71 to the present for a bilingual project designed for a five-year period.

5. The District 14 project as originally designed was directed toward the needs of Spanish-speaking children of limited English speaking ability.

6. The grant awards for the first four years (1970-74) of the District 14 project were as follows:

1970-71 - $157,322
1971-72 - $135,974
1972-73 - $150,000
1973-74 - $128,765

'75 APR 23 PM 12 41

7. For the first four years of the project (1970-74), Title VII grant to District 14, totalling $572,061, was designed to provide instructional services, materials and supplies, administrative services, and staff development services to Spanish-dominant children of limited English-speaking ability through the Bilingual Early Childhood Center located in P.S. 122.

8. In the first four years of the project no instructional services were provided through Title VII to children in non-profit private schools, as the Community School Board represented that there were no private school children in the District appropriate for such services during those years.

9. The grant application submitted for funds for the fifth and final year (1974-75) of the District 14 project for the first time requested funds for instructional services to children attending non-profit private schools in District 14.

10. The 1974-75 grant application consisted of a Spanish-English component for P.S. 122, Sts. Peter and Paul, and Our Savior; and a Yiddish-English component for United Talmudical Academy and Beth Rachel.

11. In discussion with Norman Spiegel, Director of Reimbursable Programs, Community School District 14 and Jeffrey Feingold, Special Assistant to Mr. Spiegel, project revisions were suggested that would clarify several points prior to approval of the grant.

12. By submission of June 24, 1974, the application was revised.

13. The grant application, as revised, included statistics as to the number of children of limited English-speaking ability in both the public schools and private schools located in District 14.

14. The statistics indicated that of the 26,582 public school children, over 17,000 came from homes where Spanish is the dominant language. Of this number, 8,860 children were classified as children of limited English-speaking ability.

15. Of 11,095 children enrolled at the Hebrew Day Schools and included in the survey 7,890 children were found to be Yiddish-dominant, English language handicapped.

16. Of 6,911 children enrolled in the Roman Catholic parochial schools in District 14 and included in the survey, 2,491 were found to be Spanish-dominant, English-language handicapped.

17. The grant application as revised, contained an assurance that a district-wide parent advisory committee composed predominantly of parents of project participants would meet to discuss the proposal and that an up-to-date list of the Parent Advisory Committee members and minutes of the next meeting would be forwarded to the Office of Education.

18. The Office of Education on June 26, 1974 approved a grant to District 14 for 1974-75 in the amount of $486,231 (including a $19,000 carry-over from the previous year) to be used to implement the project proposal as defined by the grant application as revised.

Sworn to before me
the 9th day of April
, 1975

Harriet Goldman
Notary Public

My Commission Expires August 31, 1978.

Elizabeth Keesee

Elizabeth Keesee
Chief, Eastern Area Programs
Office of Education
U.S. Department of Health, Education
and Welfare

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et al.

Plaintiffs,

-against-

THE COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, et al.,

and

TERRELL H. BELL, INDIVIDUALLY AND IN HIS CAPACITY AS COMMISSIONER OF THE UNITED STATES OFFICE OF EDUCATION OF THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Defendants

STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE TO BE TRIED

Civil Action No.

73 C 783

Defendant, TERRELL H. BELL, individually and in his capacity as Commissioner of the United States Office of Education of the Department of Health, Education and Welfare, by his attorney, DAVID G. TRAGER, United States Attorney for the Eastern District of New York, CYRIL HYMAN, Assistant United States Attorney, of counsel, having moved for summary judgment, submits, pursuant to Rule 9(g) of the General Rules of this court, this statement of material facts as to which he contends there is no genuine issue to be tried.

1. The Office of Education of the United States Department of Health, Education and Welfare, approved a grant to Community School District 14 of New York City pursuant to Title VII of the Elementary and Secondary Education Act of 1965, as amended, for a projected five-year project commencing with the academic year 1970-71.

2. Such project was designed to establish and develop an early childhood instructional program to meet the special education needs of children of limited English-speaking ability.

3. The project as originally designed, was directed toward the needs of Spanish-speaking children.

4. In the first year of the project 1970-71, District 14 was granted $156,322 for instructional services, materials and supplies, administrative services and staff development services for a model project at P.S. 122.

5. For the second year (1971-72), the grant to District 14 provided $135,974 for instructional services, materials and supplies, administrative services and the staff development services.

6. For the third year (1972-73), the grant to District 14 provided $150,000 for instructional services, materials and supplies, administrative services and the staff development services.

7. For the fourth year (1973-74), the grant to District 14 provided $128,765 for instructional services, materials and supplies, administrative services and staff development services.

8. For the years 1970-1974 the Title VII grant has been utilized solely to provide services for Spanish-dominant children of limited English-speaking ability in District 14.

9. This grant totalling approximately $582,000 was allocated for the Bilingual Early Childhood Center located in PS 122 in District 14.

10. No instructional services for children in non-profit and private schools were provided for the years 1970-74 under the Title VII grant.

11. In the fifth and final year of this continuing five year project under Title VII (1974-75), District 14 submitted an application for funds which for the first time made provision for the allocation of instructional services to children in non-profit private schools in the district.

12. The grant application included a Spanish-English component for P.S. 122, Sts. Peter and Paul, and Our Savior; and Yiddish-English component for United Talmudical Academy and Beth Rachel.

13. The grant application, as revised, included statistics as to the number of children of limited English-speaking ability in both the public schools and private schools located in District 14.

14. The statistics indicated that of the 26,582 public school children tested, 17,000 children came from homes where Spanish is the dominant language. Of these 17,000, 8,860 children were classified as children with limited English-speaking ability.

15. 11,095 children enrolled at the Hebrew Day Schools and included in the survey 7,890 children were found to be Yiddish-dominant, English language handicapped.

16. Of 6911 children enrolled in the Roman Catholic parochial schools in District 14 and included in the survey, 2491 were found to be Spanish-dominant, English-language handicapped.

17. The grant application as revised, contained an assurance that a district-wide parent advisory committee composed predominantly of parents of project participants would meet to discuss the proposal and that an up-to-date list of the Parent Advisory Committee members would be forwarded to the Office of Education.

18. The Office of Education on June 26, 1974 approved a grant to District 14 for 1974-75 in the amount of $467,231 with an additional $19,000 carryover from the prior year, to be used to implement the project proposal as defined by the grant application as revised.

David G. Trager
United States Attorney
Eastern District of New York
Attorney for Federal Defendant
225 Cadman Plaza, East
Brooklyn, New York 11201

By:
CYRIL HYMAN
Assistant U. S. Attorney

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et al,

Plaintiffs,

-against-

THE COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, et al,

and

TERRELL H. BELL, Individually and in his capacity as Commissioner of the United States Office of Education of The Department of Health, Education and Welfare,

Defendants.

73 Civ. 783 (JBW)

SUPPLEMENTARY AFFIDAVIT OF PATRICIA VERGATA

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

PATRICIA VERGATA, being duly sworn, deposes and says:

1. I am one of plaintiffs' attorneys in this action and I make this affidavit in support of plaintiffs' motion to compel discovery of the total number of children of limited English-speaking ability enrolled in schools in District 14, and in opposition to the various motions for summary judgment pending before the Court. This motion seeks an order compelling defendants to administer the Aspira Language Assessment Battery (hereafter "LAB") to the non-public schools in District 14. The LAB is being administered to public school children from now until May 13th.

2. On April 15, 1975, I submitted an affidavit to the Court stating that on preliminary information, it appeared

that there was a continuing obfuscation of the number of children of limited speaking ability in District 14 due to a survey conducted in March, 1975 that was unevenly and inadequately administered. (Affidavit of Patricia Vergata, April 15, 1975, ¶¶ 6-9).

3. On April 18, 1975 the Court ordered defendants to make information about the survey and the application for Title VII funds available to the plaintiffs. Plaintiffs have examined these documents. They include a 201 page fully completed application for Title VII funds for the 1975-76 school year with a proposed target participation population of 881 parochial schoolchildren and 678 public schoolchildren (p. 20 of the Title VII application, Exhibit "A" annexed hereto). Plaintiffs also examined the language data survey conducted in March 1975 that identified only 16% of the public schoolchildren as being of limited English language speaking ability as opposed to 25% of the Catholic schoolchildren and 74% of the Hebrew Day schoolchildren. See "Introduction" pp. 32-35 and 38-46, annexed hereto as Exhibit "B". Examination of these materials has confirmed plaintiffs' previous criticisms and objections and has demonstrated anew the need for an objective, reliable, valid, and uniformly administered assessment of children of limited English-speaking ability in District 19 on which to base proportionate pupil participation.

4. The most obvious deficiency of the assessment is that the test instrument was not administered to 84% of the public schoolchildren in District 14, or 20,375 out of 24,252 children in 27 schools (see "Language Data Survey", March 1975, Exhibit "C" annexed hereto). Instead, classroom teachers

were instructed to conduct a "Preliminary survey" (See "Instructions" annexed hereto as Exhibit "D") to select out, on their own subjective and unverified judgment, children "who speak English fluently for their age levels" (see, e.g., Column C of Language Data Survey for P.S. 19 annexed hereto as Exhibit "E"). Only those public schoolchildren who were not selected out by the classroom teacher were actually administered the test instrument.

5. This type of administration of language disability testing instruments is grossly inadequate for obtaining accurate and reliable results. In Aspira v. Board of Education, defendant Anker proposed an initial language disability survey to be administered in October 1974. This survey, like the March 1975 survey in District 14, was scheduled to be administered solely to children selected by the classroom teacher. In response to Aspira plaintiffs' criticism of this method, defendant Anker acknowledged the inaccuracy of this method and administered the survey to all Spanish-surnamed or Spanish-speaking children. (See Plaintiffs' critique of Defendant Anker's proposed survey in an October 24, 1974 letter to the master in Aspira. Attached hereto as Exhibit "F").

6. The unreliability of this method of subjective administration in ascertaining language disability is borne out in the disparate results produced in District 14. In October, 1973, 29% of the public schoolchildren were assessed as having severe or moderate limitations on English-speaking ability. Now, in March, 1975 there is an astonishing and unaccountable drop to 16%. These fluctuating assessments of language disability point up the unreliability of the District's March 1975 survey as a basis for targeting proportionate participation of public schoolchildren in bilingual programs under Title VII of the ESEA.

7. The unreliability of this method of administration is nowhere more manifest than in P.S. 19, a 95% Hispanic school which the Court itself has found to have pupils with severe language problems (August 15, 1974 Hearing, T. 124). In October, 1973, the language data survey disclosed that 638 children were Category I and 266 as Category II. Another survey was conducted in April, 1974 which indicated that only 266 were Category I and 143 Category II. A check of these results, conducted by defendant Anker, revealed that the figures derived in April 1974 represented a gross undercount. The spot check found an additional 344 Category I children for a total of 610 a an additional 71 Category II children for a total of 214. (A copy of this Spot Check is attached hereto as Exhibit "G"). The same gross undercount is again evident as a result of the March 1975 survey which indicated that only 213 Category I and 72 Category II or that 78% of the children do not need bilingual education. This undercount clearly demonstrates the subjective nature of the March, 1975 survey, and the unreliability of the "screen-out" procedure. Thus, reliance on the figures derived in March 1975 for the Title VII allocation of services between public and non-public schools would be inappropriate and professionally unsound.

8. In addition to an unreliable method of administration, the District's assessment of public schoolchildren's English language disability is equally as deficient in terms of the test instrument employed. The test instrument employed in March 1975 merely consisted of 2 drawings with 3 English questions printed on the back. (Exhibit"H" annexed hereto). The instructions given with the test did not in any way explain how it was actually to be administered in order to insure

uniform administration. (See Exhibit "D"). But plaintiffs submit that no matter how such a "test" is administered, it is an out-moded, rudimentary and grossly inadequate educational instrument for testing English language disability.

9. In fact, pursuant to the Aspira decree defendant Anker has developed the LAB which utilizes testing instruments that are more comprehensive and educationally sophisticated than the unstandardized "picture test" used by District 14. The LAB will be administered to plaintiff children, along with all other Hispanic children in the New York City schools, before May 13, 1975.

10. Furthermore, in addition to the unreliability of the public school figures, there has been a continuing lack of a valid and accurate assessment of the number of parochial schoolchildren with language difficulties to serve as a concomitant basis for targeting proportionate parochial student participation in District 14. In order to have comparable figures for both public and non-public schools, the LAB should be administered in the non-public schools.

11. The lack of valid, reliable and uniform methodology of assessment of Catholic schoolchildren of limited English-speaking ability, was revealed in the deposition of Sister Filippa Ann Luciano, who coordinated surveys made in February and June 1974. She indicated that such surveys consisted of a hodge-podge of unidentifiable, unreliable and unstandardized methods of ascertaining language disability. The deposition showed that there was no standardized or uniform test given to the children (T. 41) nor was any suggested (T. 42). Some schools used a "picture test" (T. 35, 39-40) while others used results of diagnostic testing in reading

and math which was only used in some grades (T. 37-38); but it was not known which schools used either method (T. 37,39) or in fact what method was actually employed at any of the schools (T. 56). The March 1975 test was administered in the same invalid manner as the public schools (T. 76).

12. In the Hebrew Day Schools also there has been no valid, reliable and uniform determination of English-language disability. The deposition of Rabbi Naftali Frankel, whom defendants' identified, as the author of the Yiddish-English Title VII application and the coordinator of the assessment of need in the Hebrew Day Schools, reveals that he did not in fact write the Title VII proposal or its needs assessment (T. 34, 43). He stated that he did not know how many children were enrolled in the Hebrew Day Schools nor their location (T. 17); that at least 3 of the sites of the addresses he did know were not in District 14 (T. 20, 21). In fact only one school was surveyed by him (T. 57) and these various instruments were proposed from "a simple question" (T. 59) to vague teacher-prepared "written tests, oral tests" (T. 60-61). He stated that no comprehensive written records exist of the results of whatever methods were employed in the one school that he himself surveyed (T. 65) and that he did not in fact actually know what method was used in any of the grades or classes in the school (T. 69-71). He had no information as to what method had been employed in any of the other schools (T. 61) and stated that in fact the Hebrew Day Schools are unequipped becuase of staffing and structural patterns to develop and administer any comprehensive, standardized testing instruments (T. 66-68).

13. This vague and incomprehensible jumble was not clarified by the March 1975 survey. In fact, only 3 Hebrew Day Schools were administered even the unreliable "picture test" in March 1975 and no testing instrument whatsoever was administered in the rest of the Hebrew Day Schools (see Exhibit "B" p. 40). Instead it was certified anonymously that the need in all the other schools was "consistent" with the results of the picture test. (Ibid.)

14. Plaintiffs' submit that the vague, unrecorded, unstandardized, unreliable and unvalidated methods employed to date in District 14 have failed to disclose the total number of children of limited English-speaking ability enrolled in public and parochial schools in the District, and that the proportionate targeting of participant public and non-public children to the same extent as required by law is simply not possible without a valid and reliable assessment of need.

15. Plaintiffs also submit that th continuing lack of a valid and reliable assessment of need, as demonstrated by the astonishing fluctuations in results in the public schools, as well as the disparity in results between public and non-public schoolchildren, raise serious questions, if not about the good faith, at least about competence of the administrators in District 14 in reliably ascertaining the true need of the children of District 14. Their reliance on unprofessional, unvalidated and abandoned methods of measuring language disability despite defendant Anker's development of more comprehensive and reliable testing instruments is unjustified.

16. Plaintiffs contend that the improved LAB developed by defendant Anker to meet the requirements of Title VI of the Civil Rights Act must also be regarded as the standard for identifying children for potential participation in the federal

bilingual programs administered under Title VII of the ESEA. Therefore, defendants should be compelled to administer the LAB in the non-public schools in order to establish proportionate public and non-public school participation in Title VII programs on the basis of this valid, standardized testing.

PATRICIA VERGATA

Sworn to before me
this 5th day of May, 1975

Notary Public

Notary Public, State of New York
Qualified in Queens County
Commission Expires March 30, 1976

EXHIBITS

"A" - Title VII Application, p. 20

"B" - Title VII Application, pp. 32-35; 38-46

"C" - Title VII Application, p. 38

"D" - Instructions for Conducting the Survey

"E" - Language Data Survey - P.S. 19

"F" - Letter of Hiller to Glushein, October 24, 1974

"G" - P.S. 19 Spot Check

"H" - Drawings and Questions

TABLE I - ENROLLMENT DATA

(Include children enrolled ages 3-18 years inclusive)

APPLICANT'S NAME: Community School District 14, Brooklyn

NAME OF SCHOOL	ENROLLMENT	STUDENTS						
		NON-ENGLISH DOMINANT* (number)	NON-ENGLISH DOMINANT (percent)	LOW INCOME		NON-ENGLISH DOMINANT TO BE SERVED (number)	ENGLISH DOMINANT TO BE SERVED (number)	TOTAL TO BE SERVED (number)
				NON-ENGLISH DOMINANT (number)	ENGLISH DOMINANT (number)			
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1. Public School 16	953	686	72	482	188	97	15	112
2. Public School 17	926	741	80	607	152	95	18	113
3. Public School 19	1310	1179	90	760	34	94	19	113
4. Public School 84	1062	903	85	499	88	97	16	113
5. Public School 196	891	606	68	394	185	96	17	113
6. Public School 250	1138	626	55	332	271	95	19	114
7. NPS Our Saviour	579	521	90	510	57	302	55	357
8. NPS Beth Rachel	1356	1153	8[illegible]	692	81	274	46	320
9. NPS Jesoda Hatorah	232	204	88	90	9	36	5	41
10. NPS Kehilath Yaakov	355	323	91	170	10	51	9	60
11. NPS Sts. Peter & Paul	297	261	88	230	6	81	22	103
12.								
13.								
14.								
15.								
16. TOTAL	9,102	7,203	79	4,766	1,131	1,318	241	1,559

*"Dominant" refers to the language most relied upon for communication in the home and/or in the community.

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EXHIBIT A

JA 470

JA 471

INTRODUCTION

School District 14 is located in the Williamsburg-Greenpoint sections of Brooklyn. It is a highly mobile, heavily populated, residential and industrial area. An overwhelming percentage of the district's residents live in substandard housing and under conditions of extreme poverty. The excessively high rate of pupil mobility within this population exceeds the 80% level in several schools.* All of the district's twenty-one elementary and six middle schools are designated as being eligible to receive Title I services. Of the approximately twenty-four thousand students attending the district's public schools, approximately sixteen thousand are currently designated as Title I eligible, based upon the most current eligibility formula. Most of the fifty-four hundred Catholic and eleven thousand Hebrew non-public school children share these characteristics with their public school counterparts.

A substantial number, (estimated at 65%), of those children attending the district's public and Catholic non-public schools, come from homes in which Spanish is the dominant language.* Most of these children enter school at the kindergarten level with severely limited English speaking ability. In fact, statistics compiled as recently as March, 1975, indicate that approximately thirty-nine hundred public* and fourteen hundred Catholic non-public school* children are moderately/severely language handicapped. The inability of so many of the district's students to conceptualize and communicate in English has had a seriously adverse effect

* See needs assessment

EXHIBIT "B"

on their academic achievement. An examination of the results of the most recent available standardized test scores and teacher evaluations graphically represent these deficiencies.*

Today, approximately fifty thousand Hasidic Jews reside in the Williamsburg section of Brooklyn. Yiddish has been and continues to be the dominant language used for daily communication. The vast majority of youngsters entering the Hebrew Day Schools at age four are proficient only in Yiddish as this is the language spoken exclusively at home and in the community at large.* The extent of this problem can be readily ascertained by examining the results of the language data survey of the Hebrew Day Schools conducted in March, 1975.* These statistics indicate that approximately seventy-four percent of Hebrew Day School students are moderately/severely language handicapped. The inability of so many Hasidic youngsters to communicate in English has not only adversely affected their academic achievement in school, but has presented a serious obstacle for the entire community as it attempts to interact with other members of American society of diverse ethnic and cultural backgrounds.

Several factors have been taken into consideration during the course of the selection process for program participants. These factors include competency in oral English language skills, language dominance, socio-economic background and educational deficiencies in basic skill areas. These criteria were assessed by reviewing standardized test scores, soliciting professional evaluations of pupil needs, conducting a district-wide language-data survey, con-

*See needs assessment

ducting interviews with parents and representatives of community groups and consulting the district's Title VII Parent Advisory Committee. As a result of the effort, the following schools have been selected as proposed project sites:

SITES	GRADES TO BE SERVICED	LOCATION
P.S. 16	K-2	157 Wilson Street, Brooklyn, N.Y.
P.S. 17	K-2	208 North 5 Street, Brooklyn, N.Y.
P.S. 19	K-2	325 South 3 Street, Brooklyn, N.Y.
P.S. 84	K-2	250 Berry Street, Brooklyn, N.Y.
P.S.196	K-2	207 Bushwick Avenue, Brooklyn, N.Y.
P.S.250	K-2	108 Montrose Avenue, Brooklyn, N.Y.
Our Saviour	1-5	250 Hooper Street, Brooklyn, N.Y.
Saints Peter & Paul	1-3	288 Berry Street, Brooklyn, N.Y.
Beth Rachel	Pre-K-1	125 Heyward Street, Brooklyn, N.Y.
Jesoda Hatorah	Pre-K-1	505 Bedford Avenue, Brooklyn, N.Y.
Kehilath Yakov	Pre-K-1	206 Wilson Street, Brooklyn, N.Y.

The major emphasis of the proposed Title VII Bilingual Pilot Program will be in developing skills in the dominant and second languages through the presentation of a carefully planned and well-balanced curriculum in all appropriate academic areas.

Project components include (1) needs assessment and criteria, (2) Program objectives, (3) instructional program and description of activities, (4) materials and curriculum development, (5) staff development, (6) Program administration, (7) Resource Management, (8) Use of Educational Resources, (9) Evaluation, (10) Dissemination, (11) parental and community involvement.

* See needs assessment

In conclusion, the proposed Title VII Bilingual Pilot Program aims, on a limited scale, to fulfill the needs of a small percentage of children of limited English speaking ability in the District 14 educational community. At the same time, it is hoped that this project will serve as a viable model to be duplicated on a larger scale throughout the district.

*See needs assessment

DISTRICT 14, PUBLIC SCHOOLS

LANGUAGE DATA SURVEY MARCH 1975

School	Total Enrollment	# Pupils Moderately Language Handicapped	# Pupils Severely Language Handicapped	Total Number Language Handicapped	Percentage of Enrollment Language Handicapped
16	953	210	63	273	29%
17	926	184	72	250	28%
18	325	20	5	25	9%
19	1310	213	72	285	22%
23	871	48	23	71	8%
31	719	91	40	131	19%
34	470	32	12	44	9%
59	899	10	2	12	2%
84	1062	223	134	357	34%
110	697	39	20	59	9%
120	731	140	79	219	30%
122	659	87	53	140	21%
132	876	104	23	127	15%
147	633	137	41	178	28%
148	575	63	25	88	15%
157	817	79	59	138	17%
168	491	142	32	174	35%
196	891	158	50	208	23%
250	1138	219	77	296	26%
257	739	98	38	136	19%
297	696	22	2	24	4%
	16,478	2,319	922	3,241	19%
33	1445	9	7	16	1%
49	1278	56	83	139	11%
50	1388	126	65	191	14%
71	955	39	59	98	10%
126	1366	75	21	96	7%
318	1342	58	38	96	7%
	7,774	363	273	636	8%

DISTRICT 14 CATHOLIC NON-PUBLIC SCHOOLS

LANGUAGE DATA SURVEY MARCH 1975

Schools	Total Enrollment	# Pupils Moderately Language Handicapped	# Pupils Severely Language Handicapped	Total Number Language Handicapped	Percentage Enrollment Language Handicapped
All Saints	386	54	0	54	14%
St. Anthony of Padua	573	5	0	5	1%
St. Cecilia	621	28	5	33	5%
St. Cyril & Methodius	301	94	9	103	34%
St. Francis of Paola	277	66	0	66	24%
Immaculate Conception	283	112	5	117	41%
Most Holy Trinity	363	104	2	106	29%
St. Nicholas	283	39	6	45	16%
Our Lady of Consolation	214	44	12	56	26%
Our Savior	579	320	48	368	64%
Our Lady of Mt. Carmel	341	54	0	54	16%
Sts. Peter & Paul	297	180	56	236	79%
St. Stanislaus Kosta	851	27	15	42	5%
St. Vincent de Paul	247	80	1	81	33%
	5616	1207	159	1366	24%

REVISED

DISTRICT 14 HEBREW DAY SCHOOLS*

LANGUAGE DATA SURVEY - MARCH 1975

SCHOOL	Total Enrollment	# Pupils Moderately Language Handicapped	# Pupils Severely Language Handicapped	Total Number Language Handicapped	Percentage Enrollment Language Handicapped
Yesh. Jesoda Hatorah	232	129	71	200	86%
Yesh. Kehilath Yaakov	355	135	71	206	58%
Beth Rachel School	1356	179	696	875	64.5%
TOTALS-	1943	443	838	1281	65.9%

* Statistics include only anticipated project schools. Statistics for other Hebrew Day Schools would be consistent with those presented in this survey.

(40)

JA 478

DISTRICT 14, PUBLIC SCHOOLS

ANALYSIS OF PUPIL PERFORMANCE - READING

METROPOLITAN ACHIEVEMENT TEST APRIL 1974

Grade Level	# Pupils Tested	# Pupils Below Grade Level	Percentage Pupils Below Grade Level
2	2,429	1,371	56.4%
3	2,608	1,872	71.7%
4	2,609	2,108	80.7%
5	2,453	1,890	77 %
6	2,321	1,952	84.1%
7	2,295	2,037	88.7%
8	2,142	1,911	89.2%
9	605	485	80.1%
Totals	17,462	13,626	78 %

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JA 479

DISTRICT 14, PUBLIC SCHOOLS

ANALYSIS OF PUPIL PERFORMANCE - MATHEMATICS

METROPOLITAN ACHIEVEMENT TEST APRIL 1974

Grade Level	# Pupils Tested	# Pupils Below Grade Level	Percentage Pupils Below Grade Level
3	2,482	1,466	59 %
5	2,317	1,657	71.5%
6	2,261	1,749	77.3%
8	1,983	1,741	87.7%
Totals	9,043	6,613	73.1%

DISTRICT 14 PARTICIPATING NON-PUBLIC SCHOOLS (CATHOLICS) **JA 480**

S R A READING TEST* SPRING 1974

SCHOOL	GRADE	# Pupils Tested	# Pupils Below Minimum Competence	Percent Pupils Below Minimum Competence
Our Saviour	1	68	54	79.4
	2	76	54	71.1
	3	74	47	63.5
	4	74	49	66.2
	5	76	58	76.3
	6	77	50	64.9
	7	77	36	46.8
	8	76	39	51.3
TOTALS		598	387	64.7
Sts. Peter & Paul	1	34	17	50.0
	2	33	15	45.5
	3	36	16	44.4
	4	34	17	50.0
	5	36	32	88.9
	6	39	29	74.4
	7	61	48	78.7
	8	27	23	85.2
TOTALS		300	197	65.7

* Data obtained from Central Brooklyn Diocese Office

DISTRICT 14 PARTICIPATING NON-PUBLIC SCHOOLS (HEBREW DAY)

NEW YORK STATE PUPIL EVALUATION PROGRAM - READING AND MATHEMATICS

FALL 1973*

		READING			MATHEMATICS		
SCHOOL	GRADE	# Pupils Tested	# Pupils Below Grade Level	Percent Pupils Below Grade Level	# Pupils Tested	# Pupils Below Grade Level	Percent Pupils Below Grade Level
Beth Rachel	3	129	110	86%	129	101	79%
TOTALS		129	110	86%	129	101	79%
Yeshiva Jesoda Hatorah	3	10	10	100%	10	10	100%
	6	15	10	66.6%	15	8	53.3%
TOTALS		25	20	80%	25	18	72%
Yeshiva Kehilath Yakov	3	39	36	92%	39	10	25.6%
	6	33	28	84.8%	33	7	21.2%
TOTALS		72	64	88.8%	72	17	23.6%

* Data obtained from principals of participating Hebrew Day Schools

DISTRICT 14 PARTICIPATING NON-PUBLIC SCHOOLS (CATHOLIC)

NEW YORK STATE PUPIL EVALUATION PROGRAM - READING AND MATH* FALL 1973

		READING			MATHEMATICS		
SCHOOL	GRADE	# Pupils Tested	# Pupils Below Grade Level	Percent Pupils Below Grade Level	# Pupils Tested	# Pupils Below Grade Level	Percent Pupils Below Grade Level
Our Saviour	3	69	31	45%	74	39	53%
	6	78	45	58%	76	55	72%
Sts. Peter & Paul	3	35	14	40%	36	4	11%
	6	40	30	75%	40	31	78%
TOTALS		222	120	54%	226	129	57%

* Data obtained from Central Brooklyn Diocese Office

JA 483

DISTRICT 14 PUBLIC SCHOOLS*

PUPIL MOBILITY DATA

SCHOOL YEAR ENDING JUNE 1974

SCHOOL	Pupil Admissions 1973-1974	Pupil Discharges 1973-1974	Total Pupil Admissions-Discharges 1973-1974	School Enrollment June 1974	Percentage Pupil Mobility 1973-1974 Year
P.S. 19	574	457	1031	1388	74.2%
P.S. 23	318	255	573	879	65.1%
P.S. 84	540	353	893	1232	72.4%
P.S. 120	410	351	761	885	85.9%
P.S. 157	366	283	649	896	72.4%
P.S. 168	134	212	346	567	61%
I.S. 49	365	395	760	1270	59.8%
J.H.S.50	220	287	507	1151	44%
I.S. 318	224	265	489	1244	39.3%

* The schools represented herein are a sampling of the twenty-seven district elementary, middle and junior high schools. The data for pupil mobility is consistent with mobility statistics for schools not included in this survey.

JA 484

DISTRICT 14, PUBLIC SCHOOLS

LANGUAGE DATA SURVEY MARCH 1975

School	Total Enrollment	# Pupils Moderately Language Handicapped	# Pupils Severely Language Handicapped	Total Number Language Handicapped	Percentage of Enrollment Language Handicapped
16	953	210	63	273	29%
17	926	184	72	250	28%
18	325	20	5	25	9%
19	1310	213	72	285	22%
23	871	48	23	71	8%
31	719	91	40	131	19%
34	470	32	12	44	9%
59	899	10	2	12	2%
84	1062	223	134	357	34%
110	697	39	20	59	9%
120	731	140	79	219	30%
122	659	87	53	140	21%
132	876	104	23	127	15%
147	633	137	41	178	28%
148	575	63	25	88	15%
157	817	79	59	138	17%
168	491	142	32	174	35%
196	891	158	50	208	23%
250	1138	219	77	296	26%
257	739	98	38	136	19%
297	696	22	2	24	4%
	16,478	2,319	922	3,241	19%
33	1445	9	7	16	1%
49	1278	56	83	139	11%
50	1388	126	65	191	14%
71	955	39	59	98	10%
126	1366	75	21	96	7%
318	1342	58	38	96	7%
	7,774	363	273	636	8%

EXHIBIT "C"

WILLIAM A. ROGERS
COMMUNITY SUPERINTENDENT

TELEPHONE
963-2520

JA 485

OFFICE OF REIMBURSABLE PROGRAMS

SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

INSTRUCTIONS FOR CONDUCTING THE SURVEY

Depending on the number of children to be surveyed, one or more persons in each school may be assigned by the principal to conduct this survey.

PRELIMINARY SURVEY

1. Survey coordinator (s) will assist each homeroom teacher in identifying pupils' ability to speak English.

2. On reverse side of class work sheet list names of pupils who have been identified as:

   a. Pupils who speak English Hesitantly at times.....and
   b. Pupils who speak no English

FINAL SURVEY

1. Survey coordinator (s) will test, individually, those pupils who have been listed on reverse side of class work sheet.

2. Survey coordinator (s) on basis of individual testing will enter final totals on face of class work sheet for each group.

3. Survey coordinator (s) will enter all totals in boxes and sign the class work sheet.

4. Survey coordinator (s) will complete School Summary Sheet requesting total school results of the language survey.

EXHIBIT "D"

COMMUNITY SUPERINTENDENT

JA 486

OFFICE OF REIMBURSABLE PROGRAMS

SCHOOL DISTRICT 14, BROOKLYN

310 SOUTH FIRST STREET

BROOKLYN, NEW YORK 11211

SCHOOL SUMMARY SHEET

LANGUAGE DATA SURVEY

SCHOOL 19 DATE 3/14/75

GRADE	COLUMN A #PUPILS WHO SPEAK ENGLISH HESITANTLY AT TIMES, OR WHOSE FOREIGN ACCENTS INDICATE A NEED FOR REMEDIAL WORK IN ENGLISH.	COLUMN B #PUPILS WHO SPEAK LITTLE OR NO ENGLISH	COLUMN C #PUPILS WHO SPEAK ENGLISH FLUENTLY FOR THEIR AGE LEVELS	COLUMN D GRADE REGISTER (should agree total colums A + B + C.)
K	55	15	114	184
1	46	9	169	224
2	38	7	190	235
3	28	7	174	209
4	14	7	204	225
5	32	4	174	210
Orientation Class (3-4-5)	0	23	0	23
7				
8				
9				
TOTALS	213	72	1025	1310

SCHOOL REGISTER 1310
(Must Agree with Total Column D)

As of 3/6/75

SUBMITTED BY A. Leone
Principal's Signature

PUERTO RICAN LEGAL DEFENSE
& EDUCATION FUND, INC.
815 SECOND AVENUE
NEW YORK, NEW YORK 10017
212-687-0644

VICTOR MARRERO
CHAIRMAN OF THE BOARD

HAND DELIVERED

October 24, 1974

Morris Glushein, Esq.
163 East 22nd Street
New York, New York 10021

RE: Aspira v. Board of Education
72 Civ. 4002 (M.E.F.)

Dear Mr. Glushein:

The defendant Board of Education is scheduled to administer their "improved method for identifying and classifying Spanish-speaking and Spanish surnamed children" pursuant to paragraph 1 of the Consent Decree on October 31, 1974. As set forth below, plaintiffs and their counsel have serious reservations and objections not only to the test instrument itself, but to the manner in which the test is to be administered.

Plaintiffs and counsel met with representatives from the Board of Education on October 17, 1974 to discuss the proposed test instrument. Alternative procedures were suggested by plaintiffs and their counsel, but for the most part these were rejected by the representatives of the Board of Education who claimed that time constraints made it impossible for them to further modify the test or the method of administering it.

On October 18, 1974 the Board of Education officials responsible for the development and implementation of the test, met with representatives from each community school district in a training session to explain the test. I have been advised by several district representatives present at that meeting that many of the objections set forth below were also raised independently by persons attending that meeting.

EXHIBIT "E"

BACKGROUND

Paragraph 1 of the Consent Decree required the defendants to develop and implement by October 1, 1974 an improved method for identifying and classifying Spanish-speaking and Spanish surnamed children on the basis of their ability to speak, read, write, and comprehend English and Spanish. On the basis of this improved method the target class was to be identified. In the event that this improved method was not developed for full implementation by October 1, 1974, notification to plaintiffs' counsel was required.

In Part I of the September 19 report to Judge Frankel, the defendants set forth the steps which had been taken up to that time towards the development of the improved method. (See Attachment A).

On October 1, 1974 Chancellor Anker notified plaintiffs' counsel that the improved classification instrument was not developed for full implementation, but that it was expected that the instrument would be available for implementation by October 31. A draft of the Spanish version was said to be in preparation and would be ready for use as of October 31, 1974. (In fact as of October 18th, the day the English test instrument was explained to district representatives, the Spanish version was still not prepared and ready for use.) (See Attachment B).

The October 1st letter indicated that the English version had been pilot tested in Hartford on September 23, 1974, and would be pilot tested in the New York City schools. The date and manner of pilot testing(in which schools, at what grade levels, to which children, the method of administering the pilot test, by whom, and under what conditions) were not discussed with plaintiffs, nor did plaintiffs' counsel have an opportunity to be involved or observe the pilot testing since the testing occurred on October 2, 3, and 4, 1974. Plaintiffs and their counsel, however, were invited to observe the administration of the test on October 31st.

Chancellor Anker in his letter of October 1, 1974, indicated that Mr. Polemini, under whose direction the test was developed, met with the Advisory Council on Bilingual Education and had a "fruitful discussion". While the meeting may have been fruitful from Dr. Polemini's point of view, the former president of the Council, Awilda Orta, and the current president, Professor Jose Vazquez, have indicated that they had objections and questions about the test instrument that Dr. Polemini was unable to answer.

Upon receipt of the draft test instrument, BIOP, (See Attachment C) a team of consultants was assembled by plaintiffs to review the test instrument. That team included the following persons: Pedro Algarin, Phd., Director of Bilingual Education at the New York University School of Education: Jose Dones, Phd. in Linguistics; Marietta Saravia of the Bilingual Educational Research Unit at Hunter College; Jose Vazquez, Director of Project BEST and the Director of the Graduate Program in Bilingual Education at Hunter College; and Awilda Orta, Director of the Mini Escuela Bilingue. The findings of these consultants cast serious doubt on viability of the test instrument itself.

THE TEST INSTRUMENT

1. The most obvious and glaring defect in the test instrument is that it is designed to test only the English-speaking ability of Spanish-speaking and Spanish surnamed children. Thus, the test departs radically from the requirements of paragraph I of the Consent Decree requiring the improved method of identifying and classifying to test the speaking, reading, writing, and understanding abilities in English and Spanish.

2. Except for the "open-ended global question" presumably designed to elicit a spontaneous response, it is obvious that a mere translation of the English version of this instrument into Spanish will not produce an instrument to test the Spanish-speaking ability of the children. The test is designed to assess the English vocabulary, pronunciation, intonation, and grammatical functions of the Hispanic background child and cannot be used in testing the Hispanic background child's Spanish-speaking ability.

3. The basic assumptions reflected in the test are of questionable value with regard to measures of competence associated with a child's ability to speak a language. The defendants assume that certain developmental levels associated with vocabulary usage, structural patterning, pronunciation, and intonation may serve as viable functions of the child's ability to speak a language. In other words, the defendants assume that the child's ability to speak a language, e.g. English and/or Spanish, may be measured in view of functions of four variables, those mentioned above, which are assumedly fundamental. Such variables may serve as determinants of measures of performance associated with a child's ability to speak a particular language, but it is questionable whether such variables are the basic, the most fundamental, or the most viable ones in arriving at an improved method of identification and classification associated with the Board of Education's purpose.

4. Those assumedly basic terms used by the defendants are cover terms without significant value and those definitions associated with such terms do not at all relate to the objectives set out in paragraph 1 of the consent decree. There is no clear relatedness between such terms and the reactions or responses of children to kinds of stimuli associated with the defendants selections. Those selections provided by the Board of Education with the test are, therefore, inadequate.

5. It is not at all clear or conclusive that identification, function, and interpretation are meaningful or relevant parameters of developmental levels. It is also unclear what developmental levels the defendants are attempting to establish, e.g., language productivity levels, cognitive development, perceptual acuity, measures of experience, etc. In short, the researchers fail to consider the perceptual universe of both the target group(s) and the control group(s) as the child's perceptual world may relate to cognitive development or experience.

6. It also appears that the tasks associated with the tests do not relate at all to age groups. The tests and scales are inadequate for the Board of Education's purpose because they are age specific. Thus, BIOP is limited with regard to its application or implementation.

7. The drawings associated with the tests are inadequate because they are ambiguous. The stimuli associated with the drawings may also not correspond in a meaningful way with the experiences of the child, e.g. it may be that the child has never seen a pear, a cherry, or a fruit stand. Thus, the tests may not involve measures of a child's speaking abilities; they may involve, rather, measures of a child's cognitive or perceptual experience. It is possible for a Spanish-speaking child to identify a pear as an avocado, and it is also possible that a child who has seen an avocado or a pear has not as yet acquired the words that go with the objects. There is no uniformity of development which may eliminate avocado as the correct response to the stimulus. Further, it is also possible for the child to have such expressive terms as part of their receptive language and not have such terms as part of their productive language. In terms of survival value, the receptive aspect of language may be more important for the child in the classroom environment.

8. The objects serving as stimuli in the tests are culture bound. The child may not have as an object of experience any of those objects serving as stimuli. Moreover, in view of the cultural orientation of the child, it

is possible for the child to respond to a higher valued object within the picture rather than the object of the tester's attention. Thus, for a hungry child, the tests may serve to establish the level of deprivation associated with hunger. It appears necessary to develop a scale which would account for stimuli ranging from immediate to non-immediate object within the child's perceptual word or experience. Such scales may relate to objects within the child's first culture and/or second culture.

ADMINISTERING THE TEST

One of the principal flaws in the test, and one of plaintiffs' primary objections, is the method by which the test is administered. If nothing else, the May, 1974 survey and the results of the spot check which followed, a spot check ordered by the Court due to preliminary indications of an undercount (later confirmed by the spot check itself), demonstrated that the method of administering the test instrument is as critical to achieving accurate results as the test instrument itself. In short, who administers the test may be determinative.

Chancellor Anker indicated in his compliance report of September 19, 1974 that as of that date it was not yet decided whether the test would be administered by the home-room teacher or by a panel or team of examiners. The directions for the administration of the test indicate that the test can be administered by bilingual, ESL, or classroom teachers. The pitfalls inherent in permitting the homeroom teacher to administer the test are many and obvious. The experience of the May survey and the spot check which followed demonstrate that if the test is administered by the homeroom teacher, a substantial number of inaccurate classifications are likely to occur. Classification may turn on, or be unduly influenced by the teachers' personal attitude towards or assessment of the pedagogical soundness of bilingual education programs knowing that the classification will determine or influence placement in these programs. Additionally, the teacher's individual interpretation of the terms and descriptive criteria used in the test may result in widely varying and standardless results. For example, Rating "4" on the test scale reads: "Responds in terms of identification and function adequately." What is an adequate response to one teacher may be inadequate to another since the homeroom teacher's judgment may be based on differing expectations, i.e. a teacher teaching in a "slow class" may conclude that a child's response is adequate for participation in that class, whereas were the child in a mixed class, or a "fast class", the teacher might judge the level of the response to be inadequate. Additionally, the directions for assessing pronunciation and intonation state that: "the ultimate differentiation is the determination of whether these areas

impede communication to a significant degree." (emphasis added). Obviously, the use of such instructions will also lead to widely varying interpretations. These shortcomings inherent in the administering of this test are the same which were present in the administering of the previous method of identifying and classifying children used by the defendants. Thus, reliance on the individual assessment of the homeroom teacher, although substituting a "new" scale simply creates the illusion of uniform classification. (See Attachment D).

Plaintiffs' objections are supported [illegible] a close reading of the written instructions given to the examiners in the test instrument. Initially, the defendants intended to instruct the examiners to administer the test to those Spanish-speaking and Spanish surnamed children whom the homeroom teacher, on the basis of past observation, were able to effectively participate in English. After discussions with plaintiffs' counsel on October 17th, when defendants first revealed that this was the intended manner of administering the scale, defendants agreed to administer the test to all Spanish surnamed and Spanish-speaking children. However, the directions for administering the scale in effect permit the same result.

The examiner is directed to preliminarily prepare the child for the test by relaxing him through a verbal exchange. Preliminary questions are suggested, but they are not required, and any verbal exchange is permitted. The directions then state:

> "Any conversation the examiner ha[illegible]with each pupil is useful in evaluati[illegible]the pupil's rating. If, in the judgment of the examiner sufficient information is available at his juncture to make a rating, the test may be stopped and a rating made."

Thus, where the examiner is the homeroom teacher, the teacher's previous assessment based on past conversations with the child will undoubtedly greatly influence their rating, and after simply asking a few preliminary questions, the teacher can rate the child without even administering the instrument.

Assuming that the homeroom teacher is unable to make a judgment after these preliminary questions, the teacher is next directed to show the child a single drawing intended to "encourage a free response". Again the directions state:

> "If the examiner judges that pupil's response to this question represents an adequate sample of oral language ability and is sufficient to provide a reliable rating, the remaining questions related to the picture need not be employed."

Thus, on the basis of the child's response to a single picture, a rating can be made. Clearly, there will be wide and disparate judgments by individual homeroom teachers. The sample answers given as guidance as to what constitutes an "adequate sample of oral language" and what constitutes a response that "is sufficient to provide a reliable rating", do not overcome this problem.

Permitting a final rating to be based on the response to this single question becomes even more questionable when one considers that the drawings used, are ambiguous. Moreover, the use of a single picture reduces the probability of eliciting the spontaneous response that is desired. It takes no great foresight to anticipate that those children given the test will discuss it with other students who have not yet been tested. Plaintiffs raised an identical objection to the use of this single picture approach in the spot survey conducted last May. The obvious reason for plaintiffs' objections were set forth in full then, and instead of using a single picture, six different pictures were used, and used randomly. The use of a single picture to evoke a spontaneous response becomes all the more suspect when one recognizes that the test may be administered in the classroom in full and open view of all other students, although a "quiet area" is recommended.

The use of a panel of examiners containing at least one bilingual examiner, or a single bilingual examiner having no prior contact with the children to be tested and who administer the test is clearly preferable to reliance on the homeroom teacher. Virtually all of the objections to the method of administering the test could be met through the use of such a panel.

Chancellor Anker, in his letter to plaintiffs' counsel dated October 1, 1974, indicated that further changes in the test might be needed and that the scoring system required refinement to insure that all Spanish-speaking and Spanish surnamed children are correctly identified by the test. Some refinements and changes have been made since that time with, and without, prior consultation with plaintiffs and plaintiffs' counsel. For the most part, however, the most serious objections raised by plaintiffs have not been met. The defendants

insisted at the October 17 meeting with plaintiffs that there was simply insufficient time to correct the deficiencies in the test instrument, many of which defendants themselves recognized.

The defendants seek to minimize these objections by qualifying the purposes for which the test results will be used. Thus, while the test results will not be used to place children in September, 1975, or preclude a child from the examinations to be given in the Spring of 1975 (which will be the basis for finally identifying and classifying children to receive the program set forth in the Consent Decree), these test results will be relied on by the defendants to determine the parameters of the class for planning purposes. Additionally, the results presumably will be used in the placement of children in the programs currently in existence, and in the Pilot Programs to be implemented by February, 1975. Plaintiffs have indicated that if the primary purpose to the test is to provide "tentative data as to the parameters of the class as defined in the Consent Decree" then, considering the inadequacies of the proposed test instrument, the defendant could save both money and time, by simply relying on the October, 1973 test results for the purposes of obtaining the "tentative data" and the gross numbers it seeks through the administration of this test.

If in fact the October 31st test will "in effect be a testing of its validity and reliability" it would seem more appropriate and advisable to continue pilot testing the instrument, incorporating many of the suggestions of the plaintiffs and administering the test under varied and controlled conditions, rather than fully testing all children on October 31st.

Clearly, any testing of the reliability and validity of the test instrument requires spot checks. The defendants indicated that spot checks were contemplated but have failed to state the precise methodology to be followed in the conducting of these spot surveys.

The letter from Dr. Michael Costello, dated October 17, 1974 does not clarify this question, and considering the controversy surrounding the proposed manner of conducting spot checks last May, it is essential that plaintiffs be consulted, as was done in May. (See Attachment E).

Moreover, the Consent Decree mandated the development of an improved method for identifying and classifying Spanish-speaking and Spanish surnamed children. However, at the training session for district representatives held on October 18th, in the offices of the Board of Education, Dr. Polemini

"F"

and Hernan La Fontaine, indicated that the test instrument was to be administered to other non-English-speaking children as well.

In order to adapt the test instrument so that it could be administered to other non-English-speaking children, the test instrument was modified in some significant respects. Thus, for example, the October 1st draft of the test instrument contained five sets of stimulus pictures (sheep/ship; ice/eyes; pin/pen; sack/sock; yellow/jello) designed to elicit English language pronunciation contrasts known to be difficult for Spanish-speaking children. The introduction to the draft test stated further that these minimal pairs are considered to be "critical among linguistics for Hispanic background children."

Of course, since these minimal pairs are critical only to Hispanic children, to include these contrasted pictures in a test for all non-English-speaking children would serve no useful purpose for these other children, and this aspect of the test has been eliminated. Therefore, the defendants in modifying the test design to broaden its scope and purpose, have created a more universal test, but one that is clearly not most appropriate for Hispanic children. This is borne out in the directions for assessing pronunciation and intonation, which now state:

> The general consensus of linguists and educators is that these phonological categories are not as important as the conceptual and syntactical categories in the rating of oral language production. Thus, in this rating scale no systematic tasks are utilized in the assessment of these areas. For this reason, and the fact that children with many different languages are being tested, these areas are allotted half the weight of Vocabulary and Structural Patterns. (emphasis added).

Plaintiffs welcome the application of the terms of the Consent Decree to non-Hispanic students, but this need not and cannot be done at the expense of the plaintiff class.

Plaintiffs vigorously object to the defendants' decision to administer the Spanish version of the test only to those Spanish-speaking and Spanish surnamed children who, on the basis of results of the English version of the test, are shown to be unable to effectively speak English. The letter and spirit of paragraph I of the Consent Decree clearly envisioned the testing of all Spanish-speaking and Spanish surnamed children in both Spanish and English. However, in administering the test on October 31, 1974, and the full

battery of tests in the Spring of 1975, the defendants plan a two-step screening process: the first in English and the second in Spanish. Thus, all Spanish-speaking and Spanish surnamed children will not be tested in Spanish. Only those who are determined to be unable to "adequately function" in English will be tested in Spanish. But, for example, what of the Puerto Rican child who arrives from Puerto Rico and who by reason of past performance in school in Puerto Rico should be advancing into the eighth grade, but because of his English language difficulties is placed in the sixth grade in the New York City public schools. The English language tests may demonstrate that he is able to adequately function in the sixth grade, but the Spanish language tests would show that his developmental level warrants placement in the eighth grade. This child, so long as he demonstrates an ability to adequately function in a sixth grade English only class, will not even be tested in Spanish, and he will not be equally and effectively participating in the learning process at a level most appropriate to his needs and abilities. The Spanish surnamed and Spanish-speaking child is thus not given the opportunity to participate in the learning process at a level consistent with his abilities. The denial of this opportunity is precisely that which 42 U.S.C. §2000d and the regulations promulgated thereunder sought to prevent. It is the comparison of the child's English language abilities with his Spanish language abilities which is contemplated by the Consent Decree, and essential if a determination of effective participation is to be meaningful.

For all of the above reasons, plaintiffs and their counsel strenuously object to the identifying and classifying of Spanish-speaking and Spanish surnamed children as currently proposed by the defendants. Inasmuch as the test is due to be given on October 31, 1974, a meeting with defendants and their counsel, in your offices, as soon as possible is requested to discuss the problems raised above.

Sincerely yours,

Richard J. Hiller
Herbert Teitelbaum

Attorneys for Plaintiffs

RJH:mr
Enclosures

cc: Hon. Marvin E. Frankel
James C. Greilsheimer
Michael B. Rosen

BOARD OF EDUCATION OF THE CITY OF NEW YORK
110 LIVINGSTON STREET BROOKLYN N Y 112
OFFICE OF THE CHANCELLOR

JA 497

HENRIETTA B PERCELL
ASSISTANT SUPERINTENDENT
Executive Assistant to the Chancellor

June 21, 1974

M E M O R A N D U M

TO: Mr. Irving Anker
Chancellor

FROM: Henrietta B. Percell HBP

RE: ASPIRA - SPOT-CHECK SURVEY - P.S.17-K and P.S.19-K (District 14)

In response to the orders of the Court, I arranged to have the staff of the Bilingual Office interview and evaluate the Spanish surnamed pupils at P.19-K and P.17-K.

1. P.19-K

	Category I	Category II
10-31-73	638	266
4-30-74	266	143

The results of the spot-check conducted on June 19-20, 1974, are as follows:

Of the 843 pupils not included in Categories I and II on April 30, 1974,

138 were absent
31 were either discharged, transferred or not tested
344 were in Category I
71 were in Category II
259 were in Category III

continued.....

EXHIBIT "G"

MEMO:

June 21, 1974

TO: Mr. Irving Anker, Chancellor
RE: ASPIRA.....

JA 498

2. P.17-K

	Category I	Category II
10-31-73	425	214
4-30-74	220	140

The results of the spot-check conducted on June 18-19, 1974, are as follows:

Of 751 pupils, 544 were reported on April 30, 1974, and 207 were not reported.
Of the 544 pupils that were reported and not included in Category I and Category II on April 30, 1974,

95 were absent
64 were either discharged, transferred, not tested, or not of Hispanic origin
[illegible] were in Category I
29 were in Category II
214 were in Category III

Of the 207 pupils not reported on April 30, 1974,

26 were absent
12 were either discharged, transferred, not tested or not of Hispanic origin
25 were in Category I
13 were in Category II
131 were in Category III

Xerox copies of the report, as submitted by the surveyors, are attached hereto. I have also asked Dr. Treiman of the Center for Policy Research to prepare an analysis of these data.

HBP:et
Atts.
cc: Ms. Wolff (3 sets)

"G"

PEO
MAR

1. What can you tell me about this picture ?

2. Can you name some of the things in the picture?

3. What is the girl doing? What is the man doing?

Affidavit of Rabbi Albert Friedman

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------x

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et. al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, and,

TERREL H. BELL, etc.

----------x

74 CIV. 783 (J.B.W.)

AFFIRMATION

RABBI ALBERT FRIEDMAN because of religious prohibition does not take oaths and therefore affirms under penalty of perjury the following:

1. I am a Rabbi affiliated with the Hebrew Day Schools in Williamsburg other than the United Talmudical Academy and Beth Rachel School for Girls and am familiar with the facts as set forth hereinafter.

2. I submit this affidavit in support of the municipal defendant's motion for summary judgment in the supplemental action challenging the grant of Title VII funds to non-public school children.

3. I supervised the administration of the Language Data Survey in the Hebrew Schools indicated below as per the instructions of the Office of Reimbursable Programs, Community School District 14 and was chosen for this task because I am fluent in English, Yiddish and Hebrew.

4. This language data survey utilized techniques similar to those employed in the public schools for classification of Language Handicapped children and resulted in the compilation as set forth in Exhibit "A" annexed hereto (See also Exhibit G annexed to the affidavit of Norman Spiegel, dated February 24, 1975).

5. Contrary to the claim of the plaintiffs the schools surveyed are located in District 14 as evidenced by Exhibit B annexed hereto.

6. Additionally, the children attending those schools all reside in District 14.

7. This language data survey accurately reflects the number of children enrolled in and eligible for Title VII services in these schools.

8. Based upon my experience within the Hassidic community in Williamsburg and my observation of the operation of these schools, I am convinced that the language disability need evidenced by the survey is entirely correct.

Dated: May 8, 1975.

Albert Friedman

ALBERT FRIEDMAN

STEVEN BERNSTEIN
NOTARY PUBLIC, State of New York
No. 30-5299765
Qualified in Nassau County
Commission Expires March 30, 1976

OFFICE OF REIMBURSABLE PROGRAMS

SCHOOL DISTRICT 14, BROOKLYN

210 SOUTH FIRST STREET

BROOKLYN, NEW YORK 11211

JA 504

DISTRICT FOURTEEN'S HEBREW DAY SCHOOL
LANGUAGE DATA SURVEY

SCHOOL	TOTAL ENROLLMENT	TOTAL NON-ENGLISH DOMINANT	PERCENTAGE OF N-E DOMINANT
Yeshiva Arugath Habosem	260	208	80%
Ahavas Yisroel-Yeshiva	420	315	75%
Yeshiva Beth Yeshaya	110	105	75%
Yeshiva Benai Mordechai	80	72	90%
Beth Jacob H.S.	450	135	30%
Beth Jacob Elementary	210	73	35%
Bnos Yaakov	750	525	70%
Yeshiva Belz	250	213	85%
Bnos Yerusalem	80	60	75%
Yeshiva Benai Yesoscher	100	95	95%
Yeshiva Pinchas Eleiezer	120	96	80%
Yeshiva Kehilath Yaakov	600	510	85%
Yeshiva Nesivath Olem	140	77	55%
Yeshiva of Paya	150	135	90%
Yeshiva Torah Vodaath	180	63	35%
Yeshiva Sherath Hapleita	220	154	70%
Beth Chana	180	126	79%
Yeshiva Shaar Hatorah	85	77	90%
Yeshiva Darkei Tshuva	90	72	80%

EXHIBIT "G"

OFFICE OF REIMBURSABLE PROGRAMS
SCHOOL DISTRICT 14, BROOKLYN
310 SOUTH FIRST STREET
BROOKLYN, NEW YORK 11211

Continued:

DISTRICT FOURTEEN'S HEBREW DAY SCHOOL
LANGUAGE DATA SURVEY

SCHOOL	TOTAL ENROLLMENT	TOTAL NON-ENGLISH DOMINANT	PERCENTAGE OF N-E DOMINANT
Yeshiva Shomrei Hadas Dekashoe	210	178	85%
Yeshiva Tzemach David	150	135	90%
Yeshiva Yesoda Hatorah	320	176	55%
Yeshiva Machlas Yaakov	400	200	50%
Adaas Yeriam	350	140	40%
Yeshiva Ahavas Torah	110	88	80%
Beth Rachel	2,025	1,418	70%
United Talmudical Academy	3,055	2,444	80%
TOTALS	11,095	7,890	71%

EXHIBIT "G"

Yeshiva Arugath Habosem	171 Hooper Street
Ahavas Yisreol-Yeshiva	6 Lee Avenue
Yeshiva Beth Yeshaya	215 Rutledge Street
Yeshiva Benai Mordechai	467 Bedford Avenue
Beth Jacob H.S.	132 South 8th Street
Beth Jacob Elementary	284 Rodney Street
Bnos Yaakov	174 Pacific Street
Yeshiva Belz	632 Bedford Avenue
Bnos Yerusalem	616 Bedford Avenue
Yeshiva Benai Yesoscher	166 Division Avenue
Yeshiva Minchas Eleiezer	137 Hooper Street(old location, mov to Boro Park)
Yeshiva Kehilath Yaakov	636 Bedford Avenue
Yeshiva Nes vath Olem	205 Hewes Street
Yeshiva of Paya	296 Marcy Avenue
Yeshiva Torah Vodaath	206 Wilson Street
Yeshiva Sherath Hapleita	131 Lee Avenue
Beth Chana	204 Keap Street
Yeshiva Shaar Hatorah	96 Hewes Street
Yeshiva Darkei Tshuva	240 Keap Street
Yeshiva Shomrei Ha las Dekashoe	156 Hooper Street
Yeshiva Tzemach David	571 Bedford Avenue
Yeshiva Yesoda Hatorah	505 Bedford Avenue
Yeshiva Nachlas Yaakov	185 Wilson Street
Adaas Yeriam	27 Lee Avenue
Yeshiva Ahavas Torah	146 Rodney Street

Affidavit of Rabbi Naftali H. Frankel

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et. al.,	:	
Plaintiffs,	:	74 Civ. 783 (J.B.W.)
-against-	:	
COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, and,	:	AFFIRMATION
TERREL H. BELL, etc.	:	

RABBI NAFTALI H. FRANKEL because of religions prohibitions does not take oaths and therefore affirms under penalty of perjury the following:

1. I am associated with the United Talmudical Academy and Beth Rachel School for Girls and am familiar with the facts as set forth hereinafter.

2. I submit this affirmation in support of the municipal defendants' motion for summary judgment in the supplemental action challenging the grant of Title VII funds to non-public school children.

3. I coordinated and collected the Needs Assessment data in the above-mentioned schools upon the instructions of the Office of Reimbursable Programs, Community School District 14. In part, I was chosen for this task because of my fluency in English, Yiddish and Hebrew.

4. This survey utilized techniques similar to those employed in the public schools for classification of language handicapped children and resulted in the compilation as set forth in Exhibit "A" annexed hereto. (See also Exhibit G annexed to the affidavit of Norman Spiegel, dated February 24, 1975).

5. Contrary to the claim of the plaintiffs, the Administrative offices of the United Talmudical Academy and Beth Rachel School for Girls are located in District 14 at 82 Lee Avenue. Both schools are located in District 14 and have annexes in other school districts. (See Exhibit B)

6. Additionally, approximately 90% of the children attending those schools reside in District 14.

7. This language data survey accurately reflects the number of children enrolled in and eligible for Title VII services in these schools.

8. Based upon my many years experience with the Chassidic community in Williamsburg and my observation of the operation of these schools, I believe that the language disability need evidenced by the survey is entirely correct.

9. The Title I application submitted for Beth Rachel School for Girls does not include all eligible children at that school.

10. The reason for this is that there is inadequate space and/or facilities at this school to permit the delivery of Title I services separate and apart from regular classroom services as required by the Board of Education.

11. Additionally many parents oppose the separation of their children into Title I groups because they feel it stigmatizes their children among their peers as poor and educationally deprived.

The same explains the limited participation of United Talmudical Academy as well as of the Hebrew Day Schools generally in the Title I program.

Rabbi Naftali H. Frankel

RABBI NAFTALI H. FRANKEL

Dated: May 8, 1975

OFFICE OF [illegible] AND [illegible] PROGRAMS

[illegible]

2810 SOUTH EIGHT STREET

BROOKLYN, NEW YORK 11211

DISTRICT FOURTEEN'S HEBREW DAY SCHOOL
LANGUAGE DATA SURVEY

SCHOOL	TOTAL ENROLLMENT	TOTAL NON-ENGLISH DOMINANT	PERCENTAGE OF E-L DOMINANT
Yeshiva Arugath Habosem	260	208	80%
Ahavas Yisroel-Yeshiva	420	315	75%
Yeshiva Beth Yeshaya	110	105	75%
Yeshiva Benai Mordechai	80	72	90%
Beth Jacob H.S.	450	135	30%
Beth Jacob Elementary	210	73	35%
Bnos Yaakov	750	525	70%
Yeshiva Belz	250	213	85%
Bnos Yerusalem	80	60	75%
Yeshiva Benai Yesoscher	100	95	95%
Yeshiva Minchas Eleiezer	120	96	80%
Yeshiva Kehilath Yaakov	600	510	85%
Yeshiva Nesivath Olem	140	77	55%
Yeshiva of Paya	150	135	90%
Yeshiva Torah Vodaath	180	63	35%
Yeshiva Sherath Hapleita	220	154	70%
Beth Chana	180	126	79%
Yeshiva Shaar Hatorah	85	77	90%
Yeshiva Darkei Tshuva	90	72	80%

EXHIBIT "G"

OFFICE OF [illegible] PROGRAMS

SCHOOL DISTRICT 14, BROOKLYN

310 SOUTH FIRST STREET

BROOKLYN, NEW YORK 11211

Continued:

DISTRICT 14 [illegible]'S HEBREW DAY SCHOOL
LANGUAGE DATA SURVEY

SCHOOL	TOTAL ENROLLMENT	TOTAL NON-ENGLISH DOMINANT	PERCENTAGE OF N-E DOMINANT
Yeshiva Shomrei Hadas Dekashee	270	178	65%
Yeshiva Tzemach David	150	135	90%
Yeshiva Yesoda Hatorah	320	176	55%
Yeshiva Kochlas Yaakov	400	200	50%
Adas Yeriam	350	140	40%
Yeshiva Ahavas Torah	110	88	80%
Beth Rachel	2,025	1,418	70%
United Talmudical Academy	3,055	2,444	80%
TOTALS	11,095	7,890	71%

EXHIBIT "G"

LIST OF SCHOOLS OF UNITED TALMUDICAL ACADEMY AND BETH RACHEL WITH THE TOTAL ENROLLMENT OF EACH SCHOOL

SITE:	ENROLLMENT	GRADES
225 Patchen Avenue	1085	3-12
125 Heyward Street	631	Nursery-4
960 - 49th Street	282	Nursery-5
1350 -53rd Street	389	Nursery-8
236-8 Marcy Avenue	212	Nursery-Pre 1a
212 Wmbg. East	507	1-2
176 Degraw Street	893	2-8
167 Sands Street	709	7-12
193 Keap Street	340	11-12

"B"

Affidavit of Lawrence F. Larkin

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et. al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, and,

TERREL H. BELL, etc.

SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF MUNICIPAL DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

74 Civ. 783 (J.B.W.)

STATE OF NEW YORK)
: SS.:
COUNTY OF KINGS)

LAWRENCE F. LARKIN, being duly sworn, deposes and says:

1. I am the Director of the Bureau of E.S.E.A. Title I Non-Public School Programs, Board of Education of the City of New York, and am responsible for the overall supervision of centrally administered Board of Education Title I Non-Public School Programs.

2. I submit this affidavit in support of the municipal defendants' motion for summary judgment in this case.

3. In their cross-motion in opposition to the municipal defendants' summary judgment motion, plaintiffs make a number of assertions which need clarification and/or are supported by misleading statistics.

4. Exemplifying this is the contention that "there is a correlation between minimum educational competence [as reflected in Title I eligibility statistics] and language competence [as reflected in Title VII eligibility statistics]" which makes the disparity in these figures questionable. (See Bezozo affidavit, paragraph 10(d)).

Since the underlying premise is incorrect the statistics submitted in support thereof are misleading.

5. The criteria for Title I non-public school eligibility under the E.S.E.A. of 1965 are that a child be below minimum educational competence, as well as, reside in an attendance area where the poverty concentration is equal to or higher than the city wide concentration.

6. Title I provides for assistance for both public and non-public schools. However, the Title I application for a particular school district, such as District #14, can only reflect schools geographically within the District, whether they are public or non-public, and which also meet poverty level criteria.

7. Significantly, the non-public school authorities are not required to submit all of the schools under their jurisdiction (nor all grades within a school) for Title I assistance, regardless of whether or not they are otherwise eligible for such assistance.

8. Additionally since the Board of Education usually requests that applicant non-public Title I schools give assurance that they have adequate space and facilities to deliver or conduct their Title I services separate from their regular classroom services, such schools may be constrained not to submit data for otherwise eligible children due to a lack of such space and facilities.

9. I have reviewed the Title I eligibility documentation for the Hebrew Day Schools in District #14. The raw data for such documentation is compiled and submitted by the Hebrew Day Schools themselves and was transmitted to Applied Urbanetics, Inc., an independent research organization, for tallying and review. The raw data, as well

as the compilations of Applied Urbanetics were then forwarded to my office for eventual transmission to local school districts. Thus, the raw data submitted with respect to both the Title I and Title VII applications of the Hebrew Day Schools in District 14 emanates from those schools.

10. Ten Hebrew Day Schools submitted data for Title I assistance in District #14 for the school year 1974-75. They are all located within District #14, and a listing follows:

School Name	Number of Eligible Children
Talmud Torah Toldus Yacov Yosef	8
Yeshiva Kehilath Yakov For Boys	22
Bais Yaakov D'Khal Adas Yereim	35
Yeshiva Ahavas Y'Israel	59
Unt'd Talmudical Acad Yesh Torah V'Yirah	281
Beth Jacob Elementary School	52
Yeshiva Yesade Hatorah V'Eltz Chaim	155
Yeshiva & Meshirva Arugath Habosem	40
Yeshiva Machziker Torah of Belz	51
Beth Rachel School for Girls	297

11. While a very general relationship may indeed exist between language competency and minimum educational competency, the figures submitted by plaintiffs in their cross-motion are not indicative or reflective thereof insofar as the Hebrew Day Schools are concerned. The Title I figures do not necessarily include all of the Hebrew Day Schools located in District 14, nor all the grades within those schools which applied for Title I funds.

12. Consequently, any comparison between Title I and Title VII eligibility figures is inappropriate and reflects a misunderstanding of the nature of that data.

13. With respect to public school Title I eligibility figures indicated in the Title I application for District 14 and referred to by the plaintiffs, it is important

to point out that these figures only reflect those students who reside in the poverty-level attendance areas. They do not reflect the actual number of such children who are achieving below minimum educational standards.

14. Since these Title I and Title VII eligibility figures as reflected in their respective applications quantify disparate categories in the public schools, any comparison of them is not probative of the issue of the reliability of the Title VII eligibility figures.

Lawrence F. Larkin
LAWRENCE LARKIN

Sworn to before me this
8th day of May, 1975.

Michael B. Rosen

MICHAEL B. ROSEN
Notary Public, State of New York
No. 31-3348705
Qualified in New York County
Commission Expires March 30, 1977

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et. al.,

Plaintiffs,

-against-

74 Civ. 783 (J.B.W.)

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, and,

TERREL H. BELL, individually and in his capacity as Commissioner of the United States Office of Education of the Department of Health, Education and Welfare.

AFFIDAVIT

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

SISTER FILLIPA ANN LUCIANO, being duly sworn, deposes and says:

1. I am the principal of Our Savior, Roman Catholic Elementary School, located in Community School District 14 and I submit this affidavit in support of the municipal defendants' motion for summary judgment in the supplemental action challenging that part of the 1974-75 Title VII grant which allocated funds to English language handicapped children in non-public schools.

2. I was chosen by the principals of the Roman Catholic elementary schools to inquire concerning the availability of federal funding under Title VII for language handicapped children in these schools.

3. In part, the reason I was so chosen is that I am fully fluent in English and Spanish, have taught in Elementary Schools in Puerto Rico nine years and possess a Masters Degree in Bilingual Education.

4. As part of this effort I met with Norman Spiegel, Director of Reimbursable Programs and Jeffrey Feingold, his Assistant, and was advised of the applicable Federal Regulations and the requirement of providing a needs assessment for the applicant schools.

5. Accordingly, I supervised the administration o the Language Data Survey for the Roman Catholic Schools em oying techniques comparable to those employed in the public schools.

6. This survey accurately reflects the number of Spanish Dominant-English-language handicapped children enrolled in and eligible for Title VII services in these schools.

7. Additionally, I am convinced that both the parents of the affected children at Our Savior and St. Peter and Paul schools as well as the parents of those children who did not participate in the 1974-75 Title VII program, supported and continue to support our participation in District 14's Title VII program.

8. I know that I have widespread community support for our Title VII program based not only upon Home School Association Meetings (Parents Advisory Group) held at the schools in question but also upon personal conversations had with parents of eligible children.

On behalf of the Roman Catholic schoo_ children participating in the 1974-75 Title VII program, I respectfully urge the Court to uphold this program and permit these severely language-handicapped children to continue to benefit from these remedial services which they so sorely need.

Sister Filippa Ann Luciano

SISTER FILIPPA ANN LUCIANO

Sworn to before me this
day of May, 1975.

JOANNE DIZEO FILIPPA ANNE
NOTARY PUBLIC, STATE OF NEW YORK
No. 41-1607642
Qualified in Queens County
Commission Expires March 30, 1976

Affidavit of Kenneth Kimerling

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF P.S. 19, et al, Plaintiffs,	:	74 Civ. 783 (JBW)
-against-	:	
COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14, et al,	:	AFFIDAVIT OF KENNETH KIMERLING
and	:	
TERRELL H. BELL, Individually and in his capacity as Commissioner of the United States Office of Education of the Department of Health, Education and Welfare, Defendants.	:	

STATE OF NEW YORK)
SS.:
COUNTY OF NEW YORK)

KENNETH KIMERLING, being duly sworn deposes and says:

1. I am an attorney for plaintiffs and submit this affidavit in support of their motion to compel defendants to administer the Aspira Language Assesment Battery LAB in the parochial schools in District 14.

2. Enclosed is the LAB. As a quick perusal of the LAB and its instructions demonstrates, the March 1975 survey done by defendants falls considerably short of professional

standards. The use of the LAB in parochial schools will provide a standardized result with which to compare public and parochial school children.

Kenneth Kimerling

KENNETH KIMERLING

Sworn to before me
this 5th day of May, 1975

Lida M. Paniagua

Notary Public

ADA M. PANIAGUA
Notary Public, State of New York
No. 41-4611[illegible]
Qualified in Queens County
Commission Expires March 30, 1976

ENCLOSURES TO AFFIDAVIT OF

KENNETH KIMERLING

ARE LOCATED AT END OF APPENDIX

Transcript of Proceedings—May 9, 1975

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

----------x

PARENTS COMMITTEE,

Plaintiff

-against-

COMMUNITY SCHOOL BOARD #14, OF P.S. #9,

Defendant,

----------x

74-C-783

United States Courthouse
Brooklyn, New York

May 9, 1975
9:30 o'clock A.M.

B e f o r e :

HONORABLE JACK B. WEINSTEIN, U.S.D.J.

ARTHUR FROOM
ACTING OFFICIAL COURT REPORTER

Appearances:

WILLIAM S. BURG, ESQ.
Attorneyfor Plaintiff
260 Broadway
New York, N.Y.

BY: IRA BEZOZA, ESQ.
-and-
PATRICIA VERGATA, ESQ.
Of Counsel

PUERTO RICAN LEGAL DEFENSE FUND
95 Madison Avenue
New York, New York

BY: KENNETH KIMERLING, ESQ.
Of Counsel

NEW YORK CITY CORPORATION COUNSEL

BY: MICHAEL CECERE, ESQ.
-and-
ROSEMARY CARROLL, ESQ.
Assistant Corporation Counsel

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of NewYork

BY: CYRIL HYMAN, ESQ.
Assistant U.S. Attorney

Also present:

MARIA GARCIA

MR. BEZOZA: I would like to speak first on the motion.

We are going to first look at the motion in which plaintiff requests that the Court order an admission of the language assessment battery test. The parochial school test was advised by someone from the Board of Education, pursuant to Title 7 of the 1964 Civil Rights Act.

This being administered at public schools in this District 14. We feel the admission of such tests is objective. The parochial schools will not alleviate the problem, that which is the 1974, 1975, and 1976, which conducted in the district for the Title 7, following the application of the page 7675 language needs assessment.

Necessity is based upon written tests, non-written instructions, no written data. 1975 and 1976 assessments was based upon the test, that in the light of the test, advised by -- the Board of Education is clearly deficient. A non-handwriting manner in which not all language children in a public school would be tested would be tests being instrumented in parochial schools.

An allegedly Hebrew day school -- over three

of the Hebrew day schools received a test.

In the Catholic day schools the test was administered differently. I think the rules in both needs assessments.

We can't rely on this and we ask that the Court order the implementary test of the parochial school before we reach the summary judgment.

MS. CARROLL: Your Honor, with respect to the testing defined by Mr. Bezoza, for 1974 and 1975, the title 7 grant application that the test was administered and the basis for the grant that's presently operating --

To have a new test for that, it would seem that more money would be needed.

THE COURT: That pretty well addresses the issue.

MS. CARROLL: As 1975 and 1976, we conducted a survey, and an informal test was worked out by an office, a program of an informal test.

THE COURT: What is that, a city office?

MS. CARROLL: That's the office within the direction which administered such a title 7.

That, at any time, an informally administered test in public schools and parochial schools. It was the good office that prepared an informal, with the same questions for both.

I believe that the testing is inadequate for the purpose of the Title 7 grant application and all the rules have already been compiled and became part of the application for Washington.

MS. BLUM: We haven't seen the test.

Your Honor, there is a limit to how deeply we get involved in the school district.

The term needs for determination needs of children and it is not probable in an informal test.

THE COURT: Why this test?

MS. CARROLL: Because we had a filing date to comply with the Aspira test.

We were in a pre-testing situation at that time and we felt this test was significant, and an informal test for both would be inadequate.

THE COURT: Why can't you do an Aspira test that won't affect --

MS. CARROLL: The Aspira test would be a second test and we feel the testing we have given is adequate. There is no basis that they claim it inadequate.

THE COURT: Is the test given now throughout the city, the Aspira test?

MS. CARROLL: Yes, but that is for the purpose of, I would think, a more definite, broad-faced program for language instruction.

This test is to determine --

The present test is for determination of traits, needs, for the purpose of setting up a model program. Not to intend to serve all children with language difficulties.

THE COURT: Was an Aspira test given in Hebrew day schools, where they have language problems?

MR. CECERE: My understanding is that there are two elements, an English element and a Spanish element.

I don't know how the Spanish could help the Hebrew school children.

MR. KIMERLING: I am from the Puerto Rican Legal Defense Fund and it is here clearly from the instruction that the language assessment battery, there would go all of the children of a language difficulty or it is included for Hispanics to be tested.

Mr. Cecere is correct, this would be a follow-up test, this Spanish, but, we are proposing, at this time, that the English language test be given in the parochial schools.

I didn't file who has language needs.

THE COURT: How expensive is the test to give?

MR. KIMERLING: It's given by the home room

teacher, your Honor.

THE COURT: Why can't you give an examination like the City?

MS. CARROLL: The reason we object to the test, is that we feel that the test we have given adequately demonstrates the needs for the purpose of the title 7 grant.

If it would cancel future Title 7 grants that means consideration, but it would seem that the present test is adequate for the Title 7.

That is not a program where every child and every Hebrew day school or Catholic or public school, would be receiving services. It's just a test to determine needs and to serve as a basis for setting up a model program, and I believe that the test is adequate for that purpose and to require an entire new testing at this point and to impose that both in public and non-public schools, I think is an unnecessary burden since the testing now is sufficient for that Title 7 grant.

THE COURT: Well, there is a claim of discrimination within the district.

All right, I will order that the test be given.

Is there time for the test to be given now?

MS. CARROLL: Yes, it doesn't take too long to administer the test.

THE COURT: All right, administer the tests. Now, what else?

MS. CARROLL: I would suggest, at this time, that the test could be given in the next week and a half.

THE COURT: Well, I don't know. I will let you take care of that.

MR. BEZOZA: I am proposing we adjourn the summary judgment.

MS. CARROLL: I request that we do not, specifically because of the Title 7 being changed in this case. We are not going to give a new test for that grant, so there is no need to postpone the motion since all of the papers are in on that motion.

THE COURT: Well, another month or two.

MR. BEZOZA: We don't want to postpone the administration of this test. We expect it will go forth quickly.

THE COURT: I don't see any reason why not.

MS. CARROLL: Also there may be a question -- I haven't looked into the E.S.E.A. as to who has to fund the administration of this test.

THE COURT: Why should it costany money?

MS. CARROLL: There is money in terms of taking---

MR. CECERE: Also, your Honor, the central board of education printed a number of testing systems in order to give this test --

THE COURT: If you have any problem, come back here. If you want to do it, if it can be done.

If you don't have the test or if it is going to be expensive. But, at this moment, it doesn't seem like a big deal.

MR. BEZOZA: Your Honor, with respect to the motion to enforce the August 26th --

This order, the original claim filed, that is also returnable today, Miss Carroll called me today, April 9, and she had told me that she had no papers.

THE COURT: You have no papers?

MS. CARROLL: No.

THE COURT: All right, we will postpone the motion.

MR. BEZOZA: We would like to know when so we don't receive papers the day of the motion. We would like to make it on the 22nd, this month. It was on for April 18th, your Honor.

THE COURT: Could you make it on the 22nd?

MS. CARROLL: Yes, I believe so.

MR. BEZOZA: And we would like their papers by next Friday, to have ample time.

MS. CARROLL: No, I know that I have several motions that I have to do.

I have an injunction that I have to answer to Wednesday.

THE COURT: When you get the papers in?

MS. CARROLL: By Tuesday or Thursday of next week.

MR. BEZOZA: That would be the 20th.

THE COURT: Could you get them in by the 19th?

MS. CARROLL: Yes.

THE COURT: And, deliver them to him for noon rather than five?

MS. CARROLL: Yes.

THE COURT: All right, what else?

MR. BEZOZA: That's it for now.

Except, why don't we come back on May 22nd, and consider the summary judgment?

THE COURT: All right, do you want to get out on behalf of the Government?

MR. HYMAN: Yes.

THE COURT: Well, I looked at the Government paper and I don't understand why the Government is in this thing.

MR. BEZOZA: Well, the Government determined assessments.

In determining the parochial -- the grants that is consistent with their educational needs. This original grant, yesterday, serviced 1,000 parochial children and that is why we filed to the Government to make a financial decision, who is to participate in parochial education.

The number of participating children is a governmental decision in the end. It doesn't go to them to decide such a merit of this case.

THE COURT: I will reserve decision on that until we see what the test scores come up with.

(continued next page)

THE COURT: I must say, I am a little skeptical of what all of this will show, because these tests will probably be given different ways in different schools, even if the whole school board does try to do the best it can.

jk
R2

It has limited control over the parochial schools and we have a problem in this area.

MR. HYMAN: I have one problem. I don't know if it came up.

The 1975 and 1976 grant application hasn't been the subject of Plaintiff's complaint.

THE COURT: The federal government should go ahead and process it.

There is no reason why the district should lose any money. There is no reason to stop the process in the regular way.

The plaintiff hasn't come forward with anything that I know to indicate that the application is invalid.

Just go ahead and process it.

MR. CECERE: Your Honor, if I may just ask that the administration of a test, does the Court say that the accuracy of the 1974 and the 1975 grant --

THE COURT: Let's see what they come up with. If it is a relatively minor discrepancy, if

it is without language discrepancy, showing one for a hundred ratio and you are presently using a fifty ratio, then we have a problem.

Let's see what happens.

MS. CARROLL: Your Honor, with respect to the 1974 and the 1975 --

THE COURT: 1974 and 1975, for all practical purposes, is over.

MS. CARROLL: With respect to next year's grant application.

The application includes P.S. 19 as well as other schools that are highly Spanish in population and it was my understanding, although the court entertained the motion to supplement the claim that the interest of the Court was more in terms of working out a reasonable arrangement for next year's title 7 grant application.

THE COURT: I think, myself, that that is what we should be working on.

That is the point, we want to get as much money out of the federal government as possible and to divide it fairly.

If you are going to destroy getting money out of the federal government, then nobody will get anything.

3

MS. VERGATA: Your Honor, we think this district is one of the districts in the country that is in the most need of money under Title 7.

It is obviously a bilingual city in both public and parochial schools. We want to determine the accuracy of this test.

We want to determine the accuracy of this test to see what the needs are. But, we are also interested in getting money for this district, as much as possible.

THE COURT: Well, I don't understand bureaucracy and the members of the school board and you couldn't work together.

I have been shocked by this whole case. Everybody seems to be at everybody else's throat instead of helping.

MR. BEZOZA: I think we are the only place in the entire country serving such a great number of parochial schools and public schools.

MS. CARROLL: For --

THE COURT: That doesn't seem to be the face of it.

MR. BEZOZA: But, when you go about and take surveys --

THE COURT: What is happening in the local

school board, have you been able to change the ratio of Spanish people?

MS. VERGATA: Well --

MS. CARROLL: There is two on the board now.

THE COURT: We're talking more practically now.

I am going to get involved in local politics. The truth of the matter is that the Spanish population was offered another school and they turned it down for their own reasons and I don't criticize them.

There was something that we could have done.

Now, if the local people whose children are involved in this are not interested enough to go out and vote there is very little the Court can do about it.

MR. BEZOZA: Judge, would you like to submit the order as an expert?

THE COURT: You ordered, why don't you submit it?

Can the corporation counsel and the other parties reach an agreement?

MR. BEZOZA: We will try.

THE COURT: When everybody gets together and works together we will be able to do something. There is limited money involved. There is no expense waiting in giving the test.

Thank you very much.

* * *

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et. al., Plaintiffs,	AFFIDAVIT IN OPPOSITION TO REQUEST TO ADMINISTER ASPIRA L.A.B. TEST IN NON-PUBLIC SCHOOLS
COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14 OF THE CITY OF NEW YORK, and	74 Civ. 783 (JBW)
TERREL H. BELL, etc.	

State of New York)
:ss.:
County of New York)

Michael S. Cecere, being duly sworn, deposes and says:

FIRST: I am an Assistant Corporation Counsel in the office of W. Bernard Richland, Corporation Counsel, attorney for defendants, and am familiar with the facts and circumstances herein.

SECOND: I submit this affidavit in opposition to plaintiffs' request that the Aspira Language Assessment Battery (L.A.B.) be administered by the defendants in the non-public schools in District 14.

THIRD: The Supplemental Complaint in this action purports to challenge the validity of the 1974-75 Title VII grant for District 14. The fifth and final year of that grant terminates as of June 30, 1975. Any issues that may have been raised in the supplemental complaint with respect to the 1974-75 grant are, for all practical purposes, moot.

FOURTH: There is thu no theoretical or practical purpose in ordering the administration of the L.A.B. in so far as the 1974-75 grant is concerned.

FIFTH: In any event, administration of the L.A.B. in the non-public schools by the Board of Education in an attempt to validite needs assessment figures which were generated over 11/2 years ago for the 1974-75 grant is a futile exercise.

SIXTH: The children to be tested are different from those who were tested 11/2 years ago. These children have been receiving Title I, Title III, Title VII and tax levy assistance and services during this period. It is reasonable to expect that their ability to take such a test will have changed over this period of time.

SEVENTH: In addition, the identities of the children to be tested are different from those of 11/2 years ago in many instances. The rate of pupil mobility for students in the schools throughout District 14 is among the highest in the City. For instance, in P.S. 19 as of February, 1975, only 37% of the children in grade 5 started in kindergarten at that school. The rate exceeds 50% districtwide.

EIGHTH: It would thus be invalid to compare the results of the proposed L.A.B. administration with language ability figures generated over 11/2 years ago since the respective results will have been compiled after testing significantly different target populations.

NINTH: It is undisputed that the needs assessment figures generated for the 1974-75 Title VII grant were compiled after the administration of a language ability test which employed similar techniques in both the public and non-public schools. See the affidavits of Sister Filippa Anne Luciano, Rabbi Albert Friedman, Rabbi Naftali H. Frankel, and Norman Spiegel submitted in support of municipal

defendants' motion for summary judgment. The criteria employed to determine pupil eligibility in both the public and non-public schools are those set forth in the federal regulation for Title VII.

TENTH: There has been absolutely no showing that the test administered at that time was in any way an invalid predicter or measure of language handicaps. Plaintiffs have demonstrated to the Court nothing more than "suspicions" concerning the reliability of that data.

ELEVENTH: Absent such a showing, the Court should not order the administration of the L.A.B. particularly when the cost and difficulty of such an administration would be extremely burdensome to the municipal defendants. See the affidavit of Dr. Anthony Polemini submitted herewith for a detailed discussion of the cost and difficulties involved.

TWELFTH: The administration of the L.A.B. is not required anywhere in Title VII nor in the federal regulations promulgated thereunder, in order to determine pupil eligibility. In fact, absent a showing that an invalid instrument was employed to arrive at a needs assessment, the Office of Education of H.E.W. places no requirements or restrictions on the kind of instrument or procedure that may be so employed.

THIRTEENTH: The administration of the L.A.B. in connection with a Title VII application is therefore neither required nor warranted and plaintiffs' request should thus be denied.

FOURTEENTH: It is also beyond cavil that the 1975-76 Title VII application for District 14 is not before the court in this action. Thus, any order directing the administration of the L.A.B. for any reason whatsoever in

connection with that application would be beyond the Court's jurisdiction.

FIFTEENTH: On April 18, 1975, the plaintiffs made a similar request for the administration of the L.A.B. in the schools throughout District 14. The Court rejected that request. Similarly, the Court should reject plaintiffs' instant request since it is already the law of the case.

SIXTEENTH: If the Court were to order administration of the L.A.B. at this time, such an order would be a preliminary mandatory injunction, despite plaintiffs' thinly veiled attempt to couch it in terms of a discovery order.

SEVENTEENTH: Defendants would thereby be required at great burden and expense to materially and irreparably change their position and administer a testing instrument, the results of which would be irrelevant to any issue that may still be before the Court, and which is not required anywhere in Title VII or in the regulation promulgated thereunder.

EIGHTEENTH: An order directing administration of the Aspira L.A.B. in the non-public schools would far exceed permissible parameters for discovery procedures under the Federal Rules of Civil Procedure. Such an order would not call for the production of any documents or records in the possession of defendants, but would require the defendants to administer a complex testing instrument, perform services and make calculations for the plaintiffs, at great burden and expense, which the Court has no jurisdiction to require defendants to do.

NINETEENTH: Defendants would be irreparably harmed thereby, since among other things, they would have no hope

of ever being compensated or of recouping the large amount of money they would be compelled to expend under the proposed order.

TWENTIETH: Such an order would, in effect, constitute a preadjudication of the issue presented by the supplemental complaint. There has been no finding of liability with respect to the supplemental complaint. On the other hand, defendants will be compelled to substantiate and support their position with respect to the 1974-75 Title VII needs assessment figures for the non-public schools through the administration of L.A.B.

TWENTY-FIRST: Plaintiffs have offered no facts to controvert the needs assessment figures for the non-public schools, and it is on the basis of mere "suspicion" that defendants would be compelled to under take this onerous burden.

TWENTY-SECOND: The results of administration of the Aspira L.A.B. would be of little or no relevancy to the issue presented by the supplemental complaint. As the Court has noted, the 1974-75 Title VII granted is for all practical purposes moot, and the target population that would be tested now will be significantly different from the population tested 11/2 years ago, rendering comparison thereof invalid.

TWENTY-THIRD: In view of the lack of relevancy coupled with the onerous burden and expense of complying with an order directing administration of the Aspira L.A.B. in the non-public schools, plaintiffs' request should be denied.

TWENTY-FOURTH: Finally, it is important to note that of the entire 1974-75 Title VII grant, only approximately $40,000 remains unexpended. It is apparent from Dr. Polemini's

affidavit that administration of the L.A.B. in the non-public schools would exceed that figure. The absurdity of compelling such administration at this time should be manifest.

TWENTY-FIFTH: Plaintiffs' request should be denied in all respects.

Michael S. Casse

Sworn to before me this
16th day of May, 1975.

DONALD M. NUSSBAUM
Notary Public, State of New York
No. 31-4517265
Qualified in New York County
Commission Expires March 30, 1976

Affidavit of Anthony J. Polemeni

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et al.

Plaintiffs,

- against -

COMMUNITY SCHOOL BOARD OF DISTRICT 14 OF THE CITY OF NEW YORK, et al.

Defendants

AFFIDAVIT

State of New York)
County of Kings) ss.:

Anthony J. Polemeni, being duly sworn, deposes and says:

1. I am Director of the Office of Educational Evaluation of the Board of Education of the City of New York.

2. This affidavit is submitted in order to appraise the Court of the immense amount of staff time and the large dollar cost to the taxpayers which would be entailed were the Court to direct us or Community School Board 14's staff to administer the LAB to all students in the non-public schools located in Community School District 14.

3. The printing, administering, and scoring of the test for the estimated 20,000 non-public school children of District 14 would entail an expense in excess of $116,000.

4. Given our lack of information as to grade enrollments in each non-public school of the District, the enrollments by grade have been estimated. Since the cost of administering and scoring the test is higher for the Level I test (Grades K-2) than for the Level II (grades 3-6) or Level III (grades 7-12) tests, the actual cost of this project could be higher or lower than the estimated $116,000, depending on the extent to which the pupils in grades K-2 exceed our estimated one-third of the non-public school enrollment.

5. The estimate of $116,000 has been computed on the following methodology:

The cost figures we have generated for the use of the LAB in the non-public schools in District 14 are broken down according to printing, distribution, administration of the test, answer sheets, hand scoring, and scoring keys.

a. Printing:

Three levels of tests for 20,000 ..... $7,000 - $10,000

(It is estimated that 100,000 tests cost $20,000; thus 1/5 the amount is equal to $4,000. However, because we are printing fewer tests, the costs are escalated. $ .35 - $. 50 per child

b. Distribution to 30 Schools:

$16.50/school for delivery ..... $ 495.00

labor for fulfillment of order 750.00

pick-up ..... $ 595.00

$ 1840.00

$ .09/child

c. Administering the Tests:

These costs are calculated on the basis of $60/day for a substitute teacher.

Level I - 30 minutes/child (individual)
1 teacher assess approximately 10 children/day or $6/child

Level II and Level III
Test 1 40 min.)
Test 2 25 min.) group
Test 3 40 min.)

1 teacher can administer tests to 2 classes/day with 35 children/class ..... $ .86/child

Test 4 10 min. (individual)

1 teacher can assess approximately 25 children/day or 2.40/child

Total Level II and Level III $3.26/child

d. Answer Sheets:

Each child needs 3 answer sheets - total number 60,000
approximately $1,000 or $ .05/child

e. Scoring Keys:

It is estimated that one answer key will be used for each 33 children at $ .10/key. We would need 600 keys for 20,000 children

approximately $60.00 or $.003/child

f. Hand Scoring:

The tests cannot be electronically scored at OEE because the optical scanning machines are being used to score city-wide tests.

It is estimated that each child's test battery can be scored by a teacher in five minutes. Thus, can score 12 children/hour or 60 children/day

total cost $1.00/child

TOTALS:

Total cost per child (Level I)	$7.643/child
Total cost per child (Levels II and III)	4.903/child

Assuming that there are equal numbers of children at each level of the test (6,666 at each of Levels I, II, and III), the total cost for each level is as follows:

Level I (6,666 X $7.643/child)	= $ 50,948.24
Level II (6,666 X $4.903/child)	= 32,683.98
Level III (6,666 X $4.903/child)	= 32,683.98
	$116,316.20

6. If more complete figures of grade enrollments become available, a more accurate estimate can be made, using the working cost figure of $7.643/child for pupils on Level I (grades K-2) and $4.903 for pupils on Levels II and III (grades 3-12).

7. In projecting these costs, no mention has been made of the severe disruption of the educational system which would be caused in order to provide sufficient personnel to perform this massive job in the non-public schools. In order to provide personnel, either substitute teachers would have to be hired or if regular teachers were used, substitute teachers would have to be hired to cover the classes normally taught by them.

8. The current processing of the LAB test required under the Consent Decree in Aspira of New York, et al. v. Board of Education, et al., has already placed a large burden on the resources and personnel of the Board of Education and community school districts. To add a new and unexpected requirement that an additional 20,000 pupils located in non-public schools be tested at this time would add to that burden.

ANTHONY J. POLEMENI

Sworn to before me this 16th
day of May, 1975

BEVERLY M. WOLFF
Notary Public, State of New York
No. 24-4515299
Qualified in Kings County
Commission Expires March 30, 1977

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

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PARENTS COMMITTEE OF P.S. 19, et al.,

-against-

THE COMMUNITY SCHOOL BOARD DISTRICT #14, CITY OF NEW YORK,

74-C-783

----------x

United States Courthouse
Brooklyn, New York

May 19, 1975
9:30 o'clock A.M.

B e f o r e :

HONORABLE JACK B. WEINSTEIN, U.S.D.J.

HENRI LEGENDRE
ACTING OFFICIAL COURT REPORTER

Appearances:

KENNETH KIMERLY, ESQ.

PATRICIA VERGATA, ESQ.

IRA BERGZA, ESQ.

MICHAEL CUCCI,
Attorney for Defendant
Assistant Corporation Counsel

THE CLERK: Parents Committee of P.S. 19 et al. v. The Community School Board District #14, City of New York.

MR. CECERE: I am sorry to come back today but as you suggested we went to the Board of Education to determine after the decision what the potential cost would be concerning the administration of the test, the lab in the non-public schools, and I submitted an affidavit from Dr. Palimento who indicated that if we were to administer English portions, that would be in excess of $116,000. He itemizes the basis for that cost, indicating printing additional tests, personal scoring. I think he gives a very detailed account of costs per child for administration of that test, and in view of that, and in view of the additional argument I have made in the affidavit that I have submitted this morning, I would respectfully urge that the Court reconsider its decision, and if I might, just for the record go over some of the arguments that I also made in my affidavit.

The supplemental complaint dealing with the 1974-75 July grant, and that grant expires -- the last and final year of that grant expires the end of June of this year. So it seems to me for all practical purposes, the challenge with respect to that grant must be

considered. In view of that, it seems to me an onerous burden to place on the defendant to spend that kind of money in the light of the stage to which the proceeding has progressed.

Additionally, if the tests were administered at the time and the results compared with the original needs assessment figures for that application we would be comparing figures generated at least a year and half apart. It's reasonable to assume that the children who have been serving, among other things, Title 7 services, over this period of time will have changed in their language abilities and perhaps in their abilities to take such a test.

Additionally, there is a problem of pupil mobility in the public schools in that district. It exceeds fifty per cent. While it's lower in the public schools for part of the population, we'll be comparing, we'll be comparing different children.

I also would comment that the test that was originally given for that '74-75 Title 7 grant, according to the affidavit that we have supplied to the Court, affidavit from non-public school authorities, that test employed similar test in the non-public schools as it did in the public schools. There has been no showing by the plaintiffs, and as a matter of

fact, there has been only suspicions voiced by them. There is no showing that that test wasan invalid test and instrument, and my understanding of the reading of Title 7 regulation, to promulgate firstly the lab instrument is not required for Title 7 applications, and in fact so long as there isn't a showing in testing instruments that HEW gives pretty much free rein. On April 15 a very similar request was made by the plaintiffs and at that time it was rejected by the Court.

And finally, if I might, your Honor, comment upon the nature of the order, if the Court were indeed to enter it. It would seem to me since it is tied to the supplemental complaint, and since there has been no finding of liability with respect to that supplemental complaint, that an order of that nature, at this time would amount to a preliminary injunction because we would be compelled to change our position at a cost in excess of $150,000 figures that we have no hope of recouping; and in fact, figures that would exceed the amount in that Title 7 grant; and in view of that I would respectfully --

THE COURT: Where would your $116,000 come from?

MR. CECERE: He details it.

THE COURT: Where would you get the money?

MR. CECERE: From the Board of Education's budget. It couldn't come out of Title I grant. It's not enough funds to cover that expense. According to the order that plaintiffs have submitted, they want not only the English version in the Catholic schools but the Spanish version, and that would increase the $116,000 cost figure even further. That figure is based upon just the English-language versions of the test.

THE COURT: Anything further?

MR. CECERE: No.

MR. KIMBERLY: We asked Mr. Cecere to have Dr. Palimento here this morning so we could go through his affidavit with him. He indicated that he would only do so if the Court ordered him to do so. I think he's down at 110 Livingston St. He could be here in a matter of minutes. I don't know if we necessarily need him. I think it would be good for him to be here to explain some of the figures that he used.

THE COURT: If you don't necessarily need him, I am not going to order him to come in. He has other things to do.

MR. KIMBERLY: Let me briefly reply. Dr. Palimento's affidavit, as the Court probably received this late Friday night; I got it 4:30 Friday.

MR. CECERE: I apologize for that.

MR. KIMBERLY: Is there a blackboard I could use, your Honor? I think it would be helpful.

I think Dr. Palimento was misinformed about the nature of what was taking place here. For example, we start with this figure of 50,000 students. The total combined figure the defendants have alleged are in parochial schools, is approximately 18,000, that's 11,000 students in the Hebrew day schools and 70,000 students in the Catholic parochial schools. Right away we are about $2,000 off.

Secondly, looking at paragraph 4, Dr. Palimento divides the test, it is given in three levels. As he indicates, level 1, K through 2, level 2, is 3 to 6, and level 3, 7 through 12, but he numerically divides this. Those three groups, level 3 would be given to three more grades than the other two tests but even if we divide it equally to 6,000 a test, what we are looking here for is comparability between the parochial schools and the public schools to see whether it's in proportion to the delivery of services. It's no necessity to give this test to anybody from 9 to 12 because the figures for the children in public schools only go up to the ninth grade. The tenth grade is handled by the central administration, so we could divide

there in half and it makes it about 3,000 children.

Secondly, we are talking again about children from K to 9, the 18,000 pupil figure is based upon children attending all the way up from nursery school to twelfth grade, and this is Dr. Frankel's affidavit showing the enrollment of the children in the Hebrew day school that are obtaining this. So that somewhere in this 18,000 figure there is a number of pre-K and nursery school children, and I wouldn't even hazard a guess, but I would assume that it could be as large as 3,000 children. So we can take 3,000 off this one.

In any event, as we go down through the cost analysis, it's clear that this affidavit was solely submitted for the purpose of interfering in dilatory tactics because it has no basis in fact. Dr. Palimento who prepared this test knows that it's a test that is re-usable. In other words, the test booklet doesn't get marked, answer sheet, so the printing costs are none because they had already administered these tests to the whole city school system, and all those tests are not available for the parochial school students.

THE COURT: But the answer sheet would have to be --

MR. KIMBERLY: Right; but there is no cost for the printing.

Now, we are talking about distribution. Again, Dr. Palimento who administered this test provided that the distribution could be handled at a central location, that's how they handled it in the public school situation. They brought it to the District Office in the schools when they came in to be introduced to the test, the principals, they are picked up there, supply of tests. There is no distribution cost because they can simply go over to the district headquarters and pick them up.

The third level, of course, here, and here's the central error in the whole summation of cost, is the administration of the examination. The way it's done simply, the home room teacher administers the test the way --

THE COURT: How long does it take?

MR. KIMBERLY: Again, these figures are not accurate.

THE COURT: Do you have a copy of the test?

MR. KIMBERLY: Yes.

MS. VERGATA: This is the level 2 and level 3, both. Dr. Palimento in his instructions --

MR. KIMBERLY: Here is Dr. Palimento's instructions.

MS. VERGATA: Says twenty-five minutes is ready

for the first level and approximately twenty minutes for the second and third level.

THE COURT: Well, he should know better than I. How can a home room teacher do it?

MR. KIMBERLY: They did it in the public schools. They provided a day for testing the children, and this is a test, at least, that can be administered by para-professionals as well. So that the test can be conducted for levels 2 and 3 which are basically written examinations in the morning and the teachers could grade in the afternoon, and that's the way it was done in the public schools, but in any event, the public school system will bear no cost in this. It's a question for the parochial schools and they are not here today.

THE COURT: I prefer to have the teachers teach instead of giving the test.

MR. KIMBERLY: They might but they are not here to state that, and they have been on this -- on notice for over a week that this would take place. The benefits as I must point out from this lab test are singular in nature. This is probably the first examination that has been prepared profesionally to identify the language skills of children. It's a diagnostic test which breaks down the language skills

between speaking, reading.

THE COURT: What was the test that they were given, the parochial kids?

MR. KIMBERLY: This was the examination that was used for District 14. It was two pictures and the same -- and a question sheet that also goes with them. It's not clear whether the children read it or the teacher administers it orally. Those were the questions; and obviously an examination of that type is limited to no values, completely significant in nature; while the lab was put together with two teams of consultants. I understand that almost a half-million dollars was spent in the production of this test to make the objective, so that the scoring would not be in a subjective way, which you could diagnose the language needs of the child, so the benefits that would go to the parochial schools are manifold. Now, they can identify for each child who took the test exactly his language needs and not only that, they could identify his needs between reading and speaking, and comprehending as well as speech, which I think is a benefit that in no way could they get from the test that was prepared by Mr. Spiegel in District 14.

THE COURT: Now, these lab tests were given under the decree.

MR. KIMBERLY: Yes.

THE COURT: How many of them were given in District 14?

MR. KIMBERLY: I think the figure --

MS. VERGATA: The tests were to be given to all Spanish surnames, all Spanish-speaking children and all students who were other than English.

THE COURT: Not in the parochial schools.

MR. KIMBERLY: Not in the parochial schools.

MS. VERGATA: This picture test was not given to anyone but sixteen per cent of the public school children. It was given to the overall majority. Nor was it given to any Hebrew day care children.

I would also like to point out that we mentioned -- we really don't know why we are here -- we mentioned at the last hearing that the test could be given by the home room teachers and it was in the public schools. He did not comment on this at all. He has not since then commented on the fact that the test could be given by the home room teachers as it was in the public schools. This is the burden that the defendant had created, it does not exist.

MR. KIMBERLY: In any event, the administration of this test is not a burden on the City, not a burden on the district with the possible exception of their

giving an introductory lecture to the separate principals, so that they could bring it back to their teachers and provide them with instructions on how the test is to be used; so the big chunk of the money that comes in here is zero again.

As your Honor pointed out, the answer sheet cannot be re-used. One of the things that Dr. Palimento could tell us is how many extra answer sheets are still available in the central board. I am certainly sure in printing this up they may for a number of extra answer sheets -- that could be used in the parochial schools, but even putting that aside, the answer sheets could be very simply either offset or mimeographed at a very minimum cost to everyone, since we are talking now in the range of about 12,000 copies.

(continued next page)

THE COURT: Now, this would be used in your evaluation of next year's appropriations.

MR. KIMBERLY: It would demonstrate once and for all the amount of children in parochial schools and the amount of children in the public schools that are in the eligible class for Title 7 funds.

THE COURT: It's not going to have anything to do with this year's appropriation. This is for next year's applications.

MR. KIMBERLY: Well, I think Mr. Cecere says it would have little probative value, but I believe it would have some probative value for 1974-75. I think it's moot for the purposes of declaratory judgment. I mean for the purposes of injunction, but because of the repetition here that we have seen, declaratory judgment might still be appropriate, and certainly as to the new exams this would be a basis for the new Title 7 program. This would be a basis for evaluating that program to see whether or not it conforms with the federal regulations.

THE COURT: What is the situation? I haven't been clear on that with respect to the new application. If you are able to demonstrate that the parochial schools are getting too much money they will just deduct that, they won't give your people any more money

MR. BEZOZA: That's not true.

THE COURT: That's what's disturbing about this whole thing. We have no indication that it will do anything but reduce the amount of money to the district.

MR. KIMBERLY: It's not absolutely clear, your Honor.

THE COURT: Well, that's why I'm so disturbed about this case. It seems to me that I have a distinct suspicion all you'll be doing is taking money away from the parochial schools without giving it to the public schools. If that's the case, what is the point of all this?

MS. VERGATA: The district can amend its needs.

THE COURT: But the need assessment will be reduced and they will get less money.

MS. VERGATA: Edwards.

THE COURT: But you are not here to help the parochial schools. It seems to me that there is nothing that you are doing here that will accomplish anything useful. That's why I've been concerned about the case for some time.

MR. BEZOZA: First off, the public schools component can be upwards, and an amendment to even include a larger amount.

THE COURT: They haven't asked for more than they

need for the public schools.

MR. BEZOZA: They can service a lot more children.

THE COURT: If they get more money, they won't get more money if they show a reduced need in the district.

MR. BEZOZA: They will show a reduced need in the parochial schools.

THE COURT: But no increased needs in the public schools.

MR. BEZOZA: If we get test results from the Aspira --

THE COURT: But you could boost up your public school. It seems to me that this is almost a dog in a manger suit, nothing is going to be accomplished by taking money from the parochial schools because you don't have a fixed fund. If you had $100,000 that had to be shared I could understand the position, but I still don't understand your position.

MR. BEZOZA: I wanted to make one further point. The position would be clear to the community school board if the Court were to rule in our favor that they could not continue this practice of submitting applications for parochial school children which is disproportionate to their needs. They will learn.

So orders that they are going to have to take into account the needs of the public school children and to organize a proper and appropriate Title 7 project.

THE COURT: There is no reason to believe they haven't. The public school kids have taken this test that you want the parochial school kids to take, haven't they?

MR. KIMBERLY: Yes.

THE COURT: So you have a good indication of their needs.

MR. BEZOZA: We will receive a good indication of their needs and we would request the Court to order the Aspira test in the parochial schools so we get a good indication of their needs.

THE COURT: You are representing the public school children?

MR. BEZOZA: I don't think for certain that we could say that HEW would not permit an upward increase in the participation of public schools.

THE COURT: I would like to have some assurance to that because I doubt it. As it now stands the HEW representative isn't here, but if the only purpose of this is to take money from the parochial schools without getting any more money to the public schools,

I don't understand the point of it.

MR. BEZOZA: It's our concept of the Title 7 grant application, that the community school board formulate a project, within that project they then target the participation of certain children. Clearly within that project there can be an amendment to participation of the children.

THE COURT: There is no indication that they have underestimated the needs of the public school children in language skills. In fact, they use the very test you want them to use.

MR. BEZOZA: We don't have the results of that test.

THE COURT: You will have the results.

MR. BEZOZA: But we can look at the results of the tests that were administered for '74-75, and '75-76 grant application, and we will see a marked decrease in the needs of public school children; and we claim this is a subjective test and it will not indicate the needs but just to go down through the schools for the '74-75. Public School 17 claims 52 per cent of its children were English handicapped for this year; 28 per cent in 19 -- they claim 62 per cent for the '74-75 grant. This year they claim 22 per cent for '74-75.

THE COURT: What are these new figures going to do to help your map?

MR. BEZOZA: They will show the specific and objective needs of the public schools.

THE COURT: You have that already. The test has been administered.

MR. BEZOZA: We don't have the results.

THE COURT: You will get it. The application you are making now has nothing to do with that point.

MR. BEZOZA: It has to do with the parochial schools.

THE COURT: What is the difference about the parochial schools, this is coming from the federal government and they are not -- there is no indication that they are going to take money that otherwise would have been given to the parochial schools and give it to the public schools.

MR. BEZOZA: Your Honor, if I could just point back to the split session, Public School 19 case, where you requested that the community school board see if they could arrange for further Title 7 funds. They wrote a letter to Miss Casey of the Office of Education. Mrs. Casey responded that there was no additional funds for Title 7. However, if the district wished to amend its target population within the Title 7 project, that she should submit an amendment to the Office of Education andthe Office of

Education would consider it. We think that a result in this case could be similar to that, an amendment can be made by the school board officials that the Office of Education will consider it; that the possibility that there will be an increase in the public school participation, and according to the decrease in the parochial school participation, we think that that is a real probability.

THE COURT: I really don't see it. I do understand that you have a political problem in the district, but I don't see how this court is going to get involved in that. You haven't been able to get enough of your Spanish people elected to the board.

MR. BEZOZA: That's not our purpose to run the community school board district. We feel the Court has a power to order the community school board not to continue the practice that they have continued of targeting parochial school children disproportionate to their needs and much greater than public school children. This situation is going to come up year after year. Let's put aside '75-76, which we don't want to put aside.

THE COURT: When is the next test going to be administered?

MR. CECERE: You are referring to the lab?

THE COURT: Yes.

MR. CECERE: The Spanish language version I am not quite sure. They have not finished the scoring in the English language version of the test. It's being completed now.

THE COURT: It hasn't been yet?

MR. CECERE: I believe the administration has been but not the scoring, the tally.

MS. VERGATA: There is another point that I would like to make. The federal regulations themselves yoke together the public school needs and the parochial school needs. They require that they be served to the same extent, and what we are arguing is legally, how can you serve -- how can you serve a different population to the same extent?

THE COURT: You are representing the people in the public schools. There is no indication that -- and I must say, I am not convinced that anything that's been said with respect to a revision of the program will give what's going to the parochial schools to the public schools.

MR. KIMBERLY: I think that we really are talking about one pot of gold and the division of that pot of gold in District 14 depends upon these figures.

THE COURT: How much of it is going to the

public and how much to the parochial schools under the proposal for '75-76?

MR. BEZOZA: 881 parochial school children and approximately 680 public school children.

MR. CECERE: On the dollar basis it's one to one, equal amount.

MR. BEZOZA: We haven't seen those children.

MR. CECERE: I can represent to the Court that the dollar basis will be one to one.

THE COURT: What is the ratio of parochial school children in the district in terms of eligibility? What is it?

MR. BEZOZA: 26,000 children are enrolled in K through 9 in Community District School 14. With these figures, K through 9, we are down to 12,000 parochial school children plus one other factor and that is that from Rabbi Frankel's application submitted last time, it was approximately 4,000 of the children counted in the Hebrew day school needing to go to school outside of the jurisdictional boundaries of District 14. If we are not to include them that would be --

THE COURT: Would these children be taking the test?

MR. KIMBERLY: We don't think it would be

necessary.

MR. BEZOZA: If we could take it one step further, we are down to 8,000.

THE COURT: They might think otherwise.

MR. BEZOZA: They can reduce their cost by not.

THE COURT: You would be reducing the number of parochial schools to make eligible --

MR. KIMBERLY: I think regulations require it.

THE COURT: Require what?

MR. KIMBERLY: That the number of parochial school children for the purposes of the need assessment would be those parochial school children who are attending school within the district. The fact that they live there and go to parochial schools outside the district is not appropriate standards for the evaluation of the need assessment. Many of the Hebrew day schools are outside of the district although the Hasidic community is certainly in the district.

THE COURT: What is the situation, do you know?

MR. CECERE: Based upon the information we have gotten from the Hebrew day schools, there is an annex of the Beth Israel school, one of the schools serviced under the '75 -- '74-75 grant. It was formerly located in the district, the building it was in was condemned. They are attempting to find another

building in the district. These children are bused from the district 14 in a flotilla of buses to the schools and back to the district. The schools and the children have their roots in the district.

THE COURT: These would be children that would be getting something of these federal funds.

MR. CECERE: They were under '74-75 grants. They have been cut out of the '75-'76 grants.

THE COURT: Even with them cutting out, you still have a one-to-one ratio.

MR. CECERE: Yes, your Honor. If I may just interject just for a moment, concerning the suspicions voiced by the plaintiff as to the accuracy, both with respect to last year's grant and with respect to the future grant, we met on at least oneoccasion at the offices of the U.S. Attorney's Office to discuss the problem, and I indicated to Mr. Bezoza on that date if he could demonstrate to us that the figures generated by the district for the '74-75 were invalid, were inaccurate that I as a public attorney would do my best to see that it was corrected.

MR. BEZOZA: These are settlement discussions.

MR. CECERE: All I ask was for concrete evidence that the figures were inaccurate and that we would do something if that were the case. He has not shown us any evidence.

MR. KIMBERLY: The purpose of this motion is to show the accuracy of those figures.

MR. CECERE: He would have the court order this administration of a test. All I ask for is evidence.

THE COURT: How much is the total that you expect to get from the federal government?

MR. CECERE: Next year I think the total would be $800,000, but I'm not quite certain.

MR. KIMBERLY: There was a case in Mount Vernon involving free lunch, a similar problem; there under Title 6 the schools were provided free lunches, those schools that had cafeterias.

THE COURT: That's a different kind of problem. There was more money coming in there. This is not that kind of a situation.

Who is paying for Aspira?

MR. CECERE: Board of Education.

MR. BEZOZA: If I could add one further fact on the number of children to be administered of this test. If we take the 12,000 figure or if we take the 8,000 figure of children going to school in the district, we then would have to subtract almost 3500 from that total representing the number of children in Catholic day schools who use Spanish surnames or

a language other than English, so we have a further reduction in the 30,000 figure.

THE COURT: Aren't they entitled to assistance?

MR. BEZOZA: We are talking about the administration of the test.

THE COURT: But then the test, even after you finish administering it, it will not give you the facts that you need with respect to them.

MR. BEZOZA: Yes, it would.

MR. KIMBERLY: These are the three levels, Spanish, children with Spanish surnames or children whose language is not English; children in parochial schools speaking nature's English.

THE COURT: With language problems.

MR. KIMBERLY: Without language problems, what Mr. Bezoza is suggesting, these 3500, another 4,000 can also be subtracted and we come to a total of about 4.4500 in all that would have to be given the LAB's. As we were going down the costs here again, Dr. Palimento includes cost of the scoring sheet, but again these scoring sheets are transferrable as the examination booklet and reusable, and there would be no cost again for the scoring sheets.

THE COURT: Did you know in advance that these tests were going to be given in the public schools?

MR. KIMBERLY: Yes, your Honor.

THE COURT: And that the problem existed. Why did we make these applications after the test was given?

MR. BEZOZA: The first time we made this application, I believe, was on April 18th.

THE COURT: And when was it first given?

MR. BEZOZA: In early May, and we came back on May 9th again while that test was being administered in thepublic schools, requesting the Court, and the Court did order that the test be administered in the parochial schools.

MR. KIMBERLY: The scoring sheets again are at no cost. In terms of the scoring of the exam, as in the administration of the exam, if the teachers or the paraprofessionals or any clerk in the parochial schools would sit down and hand score them. Similarly, there can be machine scores which are quite inexpensive, so that the scoring of the test is again a zero. So whether we multiply by 20,000 or we multiply by four and a half thousand children, multiplying by zero comes to zero and the cost of this test to the defendant very simply would demonstrate once and for all the language needs of the parochial school children are not the language needs as alleged by the defendant.

MR. CECERE: I have to remark incredulously how --

THE COURT: I think that their analysis is exaggerated. I must say I also believe that the affidavit of Mr. Palimento, with all due respect, shows a rather free use of federal funds.

MR. CECERE: May I also just respond to a few things that Mr. Kimberly brought up in his refutation of Dr. Palimento's affidavit. Initially Mr. Kimberly indicated that the original time estimate for administration of the test to the children in the schools was smaller than what Mr. Palimento alleged in his affidavit. Experience in the schools has shown that that particular time estimate is actually underestimated, and they have had difficulty in administering the test both because of a difficulty on the part ofthe teachers in understanding the terms of the scoring. That was the reason for the higher estimate here, particularly since most of these children are going to be involved, would be involved in this new administration, would be involved in it for the first time.

Mr. Kimberly referred to the fact that the test can be reusable. These tests are going to be repeated to children as they come into the school

system for future years, and that's the reason why they haven't been rechecked by the Board of Education. The nonpublic school authorities are not parties to the option. The order wouldn't bind them and I wonder whether they could do that. We must assume that we are going to bear a cost and this is a legitimate inclusion in our estimation.

Secondly, I must, with all due respect to Mr. Kimberly, comment upon his authority as an educator in terms of disputing the validity of the testing instrument that was utilized in the Title 7 1974-1975 needs assessment. The procedures as indicated by affidavit utilizing both public and nonpublic schools were the same, there were procedures outlined by the Board of Education in the instruments that it had then been utilizing for testing eligibility of children for Title 7. It was used in both public and nonpublic schools.

We now have a new testing instrument. There is no indication, as far as I can see, that new testing instruments are required under Title 7, the regulations promulgated thereunder, or for that matter, by the Board of Education with respect to participation in the Title 7 program.

THE COURT: Are there any other districts that

give this kind of money to the parochial schools?

MR. BEZOZA: The defendants have responded this is the only district that gives an equal amount or a greater amount to parochial school children in the country; not only in New York City.

THE COURT: That doesn't answer the question. Are there any other districts where parochial schools get some of this money?

MR. CECERE: There are in the southwest.

MR. BEZOZA: In New York City there are some districts that do provide it.

THE COURT: How do they make the aggregation in those districts?

MR. BEZOZA: Much lower amount to the parochial schools. I have gone through the Board of Education's resolution approving the amount of funds for the Federal Government on Title 7. I speak with a certain amount of knowledge.

MR. CECERE: There may be smaller amounts of eligible nonpublic school children in those districts.

THE COURT: Will the parochial schools cooperate in giving these tests? Do we have any indication on that?

MR. CECERE: I do not have any indication. I might indicate that a preliminary response from one

of the Hebrew day schools is that they didn't have the personnel. I felt that they had a lot of objections to the examination, but our concern is that our -- that is the chief reason for my objecting to it, particularly in the light of the context there has now arisen a mootness of the '74-75 grant, and the fact that the 75-76 grant is not the subject of the supplemental complaint.

In view of this context, I just can't -- I find it hard to believe that the Court should order this test at this time.

And one more point in terms of when the plaintiffs knew about the administration of the lab instrument, that a lab instrument was being devised, by consultation between plaintiff and defendants as early as November 1974. It was talked about at that time and it was said that that test would be administered in early May or late April of 1975. In January the plaintiff submitted a supplemental complaint in this case bringing in a Title 7 issue. So, for at least four months the issue was before the Court and potential administration of that test was known to the plaintiff and they waited until the eve of administration to request this administration in view of their own delay.

I would additionally urge that the Court deny their motion.

MS. VERGATA: If I may respond to the delay point. The delay has been on the part of the defendants. We repeatedly tried to get information from them as to how they were facing need. They refused to answer questions in the interrogatories. Mr. Cecere instructed the parochial school principal not to answer the question; likewise, the Hebrew day school refused to answer the questions in the deposition.

I would also again repeat, when we discussed this a week ago, we stated that the test would be given by the home room teachers, as it had been in the public schools.

THE COURT: You can't say that.

MS. VERGATA: The public schools were represented by an attorney. He hasn't said anything since then: any problem that the parochial schools were having in administering tests that way. It has not been raised by them.

MR. CECERE: If I may just respond?

THE COURT: I would like to find out from them what the situation is. I would like to find out from the United States representative what impact this is going to have, if any.

MR. BEZOZA: The Hebrew day schools were represented; the Catholic day schools-- there is a question as to who was representing them.

MR. KIMBERLY: Your Honor, it is the responsibility of the district to administer Title 7 programs, whether or not they are in parochial schools. They are under the administration of the district office. It is the district office who is responsible for the needs assessment.

THE COURT: And can they order parochial school people to administer tests?

MR. KIMBERLY: Yes, they are.

THE COURT: Have they done that?

MR. KIMBERLY: Yes, they have asked them to administer this test. It wasn't generated from the parochial schools, it was done by Mr. Segal at District 14 and given to the parochial schools and directed to be administered by the home room teachers. This test I'm sure could take as any of the lab tests because it has to be individually given.

THE COURT: Who is the party to serve this on for the parochial schools?

MR. CECERE: I just don't know. We have had a Sister Feliciana, she is the Sister of Our Savior School. I don't know whether she is an appropriate

MS. VERGATA: She was given this test.

THE COURT: Copy of this order shall be served on the party in charge of each parochial school.

MR. BEZOZA: You mean each parochial school or the person who has been designated as the coordinator.

THE COURT: The parochial school.

MR. KIMBERLY: We don't have all --

MR. BEZOZA: There have been two people designated as coordinators and you have those affidavits before you also.

MR. CECERE: According to our tally, Hebrew and Catholic are 47 schools.

THE COURT: Is she the person?

MR. CECERE: She is the person whom the district dealt with with respect to St. Peter's and Paul and Our Savior. Those are the schools that participated in the last grant, she and another sister, Sister Thomasina. Those were the two sisters that dealt with the district concerning the '74-75 grant. With respect to the Hebrew schools, the district dealt with a Rabbi Frankel and a Rabbi Friedman, who submitted information in that kind of thing. Those are the four people, to my knowledge, that were dealt with.

THE COURT: There is an attorney for the Hebrew

day school?

MR. BEZOZA: Rabbi Frankel was represented by an attorney.

THE COURT: Our problem is, I think each school might have a different problem. That's the point, they are not really parties to this.

MR. BEZOZA: An order served on the Community School Board and directing it to the coordinators, that they dealt with all along.

MS. VERGATA: Sister Felicita testified that she dealt with all the public schools before.

THE COURT: Well, I'll say a copy of this order shall be served on the party in charge of each parochial school or person representing them. You have to take your chances.

MR. KIMBERLY: Served by mail?

THE COURT: I'll make it ten days; otherwise they won't have time to respond.

MR. KIMBERLY: Provide for five days and if there is a problem we'll apply for an extension.

THE COURT: I'll take it out, the paragraph saying that there will be two lab coordinators. We'll take out the paragraph marked "ten days." That will be something that they will arrange.

MR. KIMBERLY: And plaintiff indicated that .

you could strike the last paragraph on page one, the administration of the Spanish-version language. This whole paragraph comes out.

MR. KIMBERLY: Just the word both -- the Spanish version, or the English (indicating). You could do it this way, your Honor.

THE COURT: That's the way I have it. All right, let's see what the response is to that.

MR. CECERE: May I just read your endorsement and then make a request of you?

MR. KIMBERLY: While he's doing that -- on the 22nd we had an enforcement hearing of the recent month's order, which was Thursday of this week. We submitted evaluation of Public School 19 by Professor Santiago. We plan to bring her if your Honor cares to hear her testimony at that time.

THE COURT: Is that clear enough, that order?

MR. CECERE: Does that mean that they must be served within that five-day period?

THE COURT: They have to be served immediately. I exoect service to take place today and tomorrow.

MR. CECERE: May I respectfully request that the Court grant the order that's entered today? I would ask that the Court consider the question of whether the order that has been entered is as a matter

of law a mandatory preliminary injunction, and if so it has been properly issued at the stage of the action or if the order is not a mandatory preliminary injunction but rather a discovery order? Does it exceed the perimeters of the discovery, in view of the burden and expense that the defendants have brought to the Court's attention this morning? From the municipal offenders' point of view, it's a very difficult order, particularly, I have to keep reemphasizing it in view of the stage that the proceeding has gotten to. You have indicated yourself that the '74-75 grant, for all practical purposes, is moot. The new grant, '75-76 grant is not before the Court.

THE COURT: Isn't it before the Court?

MR. BEZOZA: Yes.

THE COURT: How is it before the Court?

MR. BEZOZA: We originally had the practice of disproportionate -- our statement of fact included the '74-5 grant. We clearly did not consider that moot. Furthermore, what has happened, there has been an involvement of facts. The same practice is being planned for the '75-76 grant. We did not see the necessity to amend our complaint to add those facts.

THE COURT: Well, you'd better supplement your complaint.

MR. BEZOZA: We will do that.

MR. CECERE: For the record, may I --

THE COURT: Leave is granted to file a supplemental complaint within five days.

MR. CECERE: May I couple my request with an application for a stay of the enforcement of the order pending that appeal, if you so grant it?

THE COURT: I don't think I could grant you leave to appeal. Under what provision?

MR. CECERE: Under 1292B of the Administrative Code, the Court could certify a question to the Second Circuit.

THE COURT: I don't believe so. I think you might be wrong about that. Clearly a discovery problem, it's not an injunction.

MR. CECERE: On that I would just indicate in view of the change in position that we will have to take, in view of the fact that that is going to be an irreparable charge, that it would indeed be a mandatory injunction.

THE COURT: It doesn't come within 1292B, because it doesn't involve questions of law to which there is standing a ground for difference of opinion, it's just a question of fact.

MR. CECERE: Well, the question would be, your

Honor, since the 1974-75 grant, as you indicated, is for all practical purposes moot, and since the time --

THE COURT: Practically I'm allowing them to supplement their complaint as part of the litigation. There is no question about it. If it was only '74-75 I obviously would not get involved in this, but we are talking about a fresh '75-76 application.

MR. CECERE: But they have presented no fact to the Court with respect to that '75-76 application, casting doubt upon the need assessment figures. The need assessment figures they have challenged --

THE COURT: If you want to within five days submit some further information on that I'll be glad to hear you, but as it stands now it seems to me they are entitled as a matter of discovery; they have the information. I think your cost figures are excessive. Of course, I understand there will be a substantial burden.

Now, you have in effect five days to do something. If parochial schools aren't going to cooperate, then we have another problem. You will be here Thursday, in any event.

MR. CECERE: With respect to Thursday, may I also request that the motion to determine this suit

a class action be adjourned two weeks, in view of the papers being drawn up with respect to the application this morning, and the additional papers that we'll be submitting.

THE COURT: All right, two weeks' adjournment. I'll see you all Thursday.

MR. CECERE: Thank you, your Honor.

(Whereupon the Court adjourned for the day in this matter.)

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Order of Judge Weinstein, May 19, 1974 **JA 585**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------X

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et al.,

Plaintiffs,

-against-

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT No. 14, et al.,

Defendants.

and

TERREL H. BELL, Commissioner of the United States Office of Education,

Defendants.

----------X

74 Civ. 783 (JBW)

This matter having come on to be heard on plaintiffs' motion to compel discovery pursuant to Fed. R. Civ. P. 33 and 37, and papers having been submitted and a hearing having been held on May 9, 1975, before the Hon. Jack B. Weinstein, it is

ORDERED, that plaintiffs' motion to compel the administration of the Language Assessment Battery (LAB) test in the non-public parochial schools in Community School District No. 14 for the purpose of the identification of the number and percentages of parochial school children who have difficulty speaking and understanding instruction in English is granted, and it is further

ORDERED that ~~both~~ the English ~~and Spanish~~ versions of the Language Assessment Battery (LAB) test be administered to all Spanish-speaking and Spanish surnamed students enrolled in the non-public, parochial schools, and it is further

ORDERED that the English version of the Language Assessment Battery (LAB) test be administered to all other students, not fluent in English, and whose primary language is other than the Spanish, enrolled in the non-public parochial schools in Community School District No. 14, and it is further

ORDERED that the Language Assessment Battery (LAB) test be implemented and administered in the non-public parochial schools in accordance with the procedures established by the defendant Board of Education for the administration of said examination in the public schools of the City of New York, and it is further

ORDERED that at least two LAB coordinators, designated by the Board of Education, be responsible for the orientation and supervision of non-public, parochial school personnel in the administration of said examination, and it is further

ORDERED that the aforementioned testing be completed within ten days from the entry of this order, and it is further

ORDERED that plaintiffs' counsel be permitted to attend the orientation meetings held by the LAB coordinators to instruct the non-public, parochial school personnel in the administration of said examination and that plaintiffs' counsel be permitted to inspect and photocopy all documents, including but not limited to memoranda of information and instructions and testing results, produced or exchanged as a result of the administration of said examination in the non-public parochial schools in School District No. 14.

DATED: BROOKLYN, NEW YORK
May 14, 1974

JBW

UNITED STATES DISTRICT JUDGE

This order shall be effective within 5 days unless representatives of any parochial school affected shall move by oral (telephone call) request to the Court's chambers, 596-4718, for a stay. The matter will then be promptly heard. A copy of this order shall be served on the person in charge of each parochial school or a person representing the person in charge.

Notice of Appeal by Defendants

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et al.,

Plaintiffs,

-against-

74 Civ. 783 (JBW)

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14, BOARD OF EDUCATION OF THE CITY OF NEW YORK & IRVING ANKER as Chancellor,

Defendants.

and

TERREL H. BELL, Commissioner of the United States Office of Education,

Defendants.

----------x

S I R S :

NOTICE IS HEREBY GIVEN that defendants, Community School Board of Community School District No. 14, Board of Education of the City of New York and Irving Anker, as Chancellor hereby appeal to the United States Court of Appeals for the Second Circuit from the order entered therein on or about May 19, 1975, which required the Board of Education to conduct a language assessment battery in the non-public schools of District 14.

Dated: New York, N.Y.
May 19, 1975

W. BERNARD RICHLAND
Corporation Counsel
Attorney for Board of
Education & Irving Anker
Office & P.O. Address:

Municipal Building
New York, N.Y. 10007

By _____
LEONARD KOERNER

IRA S. BEZOZA, ESQ.
PATRICIA VERGATA
WILLIAMSBURG LEGAL SERVICES
260 Broadway
Brooklyn, New York
532-8470

KENNETH KINERLING, ESQ.
HERBERT TEITELBAUM
Puerto Rican Legal Defense Fund
95 Madison Avenue
New York, New York

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----------x

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19, et, al.,

Plaintiffs,

74 Civ. 783 (JBW)

-against-

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14, BOARD OF EDUCATION OF THE CITY OF NEW YORK & IRVING ANKER as Chancellor,

SECOND SUPPLEMENTAL COMPLAINT

Defendants,

-and-

TERREL H. BELL, Commissioner of the United States Office of Education.

Defendants.

----------x

Plaintiffs, having been granted leave by the Court on May 19, 1975 to file a supplemental pleading setting forth facts and transactions having occurred subsequent to the date of the filing of plaintiffs' first supplemental complaint on December 13, 1974, hereby set forth such facts as follows, adding paragraphs 85 to 103, and accordingly re-numbering in sequence paragraphs 85 through 100 as paragraphs 104 to 119 respectively, and adding paragraphs 120 to 123.

85. On March 6, 1975 District 14 employees called a meeting at P.S. 122 of certain parents of children already participating in the 1974-75 Title VII program at P.S. 122, Our Saviour School, and an undetermined Hebrew Day School. On information and belief this was the only meeting ever held with said parents throughout the duration of the 1974-75 Title VII program. There was no consultation at this meeting with said parents on the development of the application for the 1975-76 Title VII program.

86. At no time did defendant Community School Board formally approve the selection of these or any other persons as constituting a Title VII Community Advisory Group. The persons present at the meeting were selected by school officials.

No persons were selected to participate/who were representative of the entire population eligible to be served by Title VII programs, such as members of civic and community organizations. Defendants did not publicize in any manner the names of persons called to the meeting as constituting a Community Advisory Group on Title VII programs or the time and place of the meeting.

87. On information and belief, on April 1, 1975 another meeting was held at the District 14 office of/other parents of public school children and children attending Our Saviour and Beth Rachel schools. This was the first and only meeting held by defendants with said parents prior to the submission of the Title VII application for 1975-76. Defendants had not consulted with these or any other persons prior to this meeting on the development of the 1975-76 Title VII application. Persons present at that meeting were asked to confirm targeted schools already selected by defendants on the basis of a needs assessment already planned and conducted by District 14 defendants without prior consultation with any community advisory committee.

88. On information and belief, the persons attending the April 1, 1975 meeting were not selected by the Parent Associations of the respective schools; instead they were selected only by school officials. Subsequent to this meeting the names of the persons selected as constituting a community advisory group were publicized in an English - language newspaper. On information and belief the names of the persons selected for membership on the Community advisory group have not been publicized in a Spanish - language newspaper of general circulation.

89. On Friday, April 11, 1975, a public hearing on the submission of an application for Title VII funds for the 1975-76 school year was held at 3:30 in the afternoon at I.S. 49. Members of the defendant School Board and defendant Superintendent Rogers' representative Norman Spiegel were present at the hearing. A summary of the tenantive application was distributed to the public.

90. This summary contained no information about important subject matter of the application such as the manner and method of identification of target children and the need and the exact number of children to be served at each public and parochial school site. A Board member, Ms.

Luisa Rivera, stated that she and the other minority members of the Board had n not previously received copies of the tenative application and had no information about its preparation or subject matter.

91. On Wednesday April 23, 1975 defendant community school board held its regularly scheduled monthly public meeting at JHS 126 at 7:30 P.M. The first resolution on the agenda was the approval of the application for Title VII funds for the 1975-76 school year. Board member Luisa Rivera offered an amendment to the resolution conditioning approval of the application upon the District's assessing the language disability problems and proportionate need for bilingual education of District 14's public and parochial school children through administration of the Language Assessment Battery (hereinafter sometimes "LAB")developed by defendant Board of Education. Members of the public attempted to speak on the amendment, but defendant Brother Lally, as Chairman of the Board, did not recognize them and stated he would not permit discussion on the amendment. The amendment was voted down 6-1. The Title VII application for 1975-1976 was then approved by the Board 5-1, with one abstention.

92. On or about May 1, 1975, District 14 defendants submitted to the U.S. Office of Education a 201 page application for Title VII funds for the 1975-76 school year with a proposed target participation population of 881 parochial school children and 678 public school children to participate as follows:

Public Schools	
P.S. 16	112
P.S. 17	113
P.S. 19	113
P.S. 84	113
P.S.196	113
P.S.250	114
	678

Parochial Schools	
Our Savior	357
Sts Peter & Paul	103
Beth Rachel	320
Jesoda Hatorah	41
Kehilath Yaakov	60
	881

93. In the application defendants targeted proportionate participation of public and parochial children in the Title VII program for 1975 - 76 on the basis, inter alia, of a language data survey conducted in

March 1975 that identified only 16% of the public school children as being of limited English language speaking ability as opposed to 25% of the Catholic school children and 74% of the Hebrew Day school children.

94. The language data survey was given in March 1975 and employed a single testing instrument, a "picture test" consisting of two drawings with three English questions printed on the back. The instructions given with the test did not in any way explain how it was actually to be administered or scored in order to insure uniform procedures.

95. The test instrument was not administered to 84% of the public school children in District 14, or 20 375 out of 24,252 children in 27 schools. Instead, classroom teachers were instructed to conduct a "Preliminary survey" to select out, on their own subjective judgment, children who speak English fluently for their age levels. Only those public school children who were not selected out by the classroom teacher were actually administered the test instrument.

96. The results of the subjective March, 1975 survey of public school children showing only 16% as having English Language difficulty unaccountably fluctuate markedly both from the results of a language data survey conducted in October 1973 showing 29% as having English language difficulty and from the District's previous application for funds for the 1974-75 school year which described 17,916 of the 26,654 public school children, or 67 %, as being from homes whose dominant language was not English.

97. The unaccountable fluctuation between the results of the subjective March 1975 survey and previous language data surveys occurred in both public and parochial schools:

	1974 - 1975 Language Survey	March 1975 Survey
Beth Rachel	2025/1418(70%)	1356/875 (64.5%)
Jesoda Hatorah	320/176 (55%)	232/200 (86%)
Kehlath Yaakov	600/510 (85%)	355/206 (58%)

Our Savior	611/423 (69%)	579/368 (64%)
Sts. Peter & Paul	298/135 (46%)	297/236 (79%)
	1973 Language Data Survey	March 1975 Survey
P.S. 16	1037/279 (26.9%)	953/273 (29%)
17	1203/789 (51%)	926/250 (28%)
19	1401/904 (62%)	1310/285 (22%)
84	1301/717 (55%)	1062/357 (34%)
196	993/403 (41%)	891/203 (23%)
250	1242/518 (42.5%)	1138/296 (26%)

98. The proportionate participation in Title VII programs of parochial school children in the 1975-76 application was also based, inter alia, on the results of the subjective language data survey. The parochial schools were given this survey by the District 14 Office of Reimbursable Programs to administer in March 1975.

99. On information and belief, the subjective three question test survey was administered in the Catholic parochial schools. However, it was not administered to children enrolled in 33 out of 36 of the Hebrew Day Schools. No other method of assessment of need was employed with respect to the children enrolled in these excluded Hebrew Day schools. Instead of an assessment of need, the 1975-76 Title VII application contained the unsupported statement that "[s]tatistics for other Hebrew Day Schools would be consistent with those presented in this survey."

100. In addition, in assessing the total need or which to base proportionate participation of parochial school children, defendant included approximately 4,000 children enrolled in at least seven Hebrew Day Schools located outside District 14. On information and belief, defendants also included in the assessment of total needs of Hebrew Day School children enrolled in nursery schools, pre-kindergarten classes and students in grades 9 through 12 though children similarly situated in public schools were not included in the total needs assessment of public school children. The combination of including children outside the District and children in grades not included in the public school assessment grossly distorted the needs assessment for the Hebrew Day Schools.

101. The subjective method of administration of language disability assessments had previously been abandoned by defendant Anker. In Aspira v. Board of Education, defendant Anker proposed an initial language disability survey to be administered in October 1974. This survey, like the March 1975 survey in District 14, was scheduled to be administered solely to children selected by the classroom teacher. In response to Aspira plaintiffs' criticism of this method, defendant Anker acknowledged the inaccuracy of this method and agree to administer the survey to all Spanish-surnamed or Spanish-speaking children.

102. In fact, pursuant to the Aspira decree and the responsibility to identify pupils in need of bilingual education under Title VI of the Civil Rights Act, defendant Anker has developed the Language Assessment Battery (hereinafter sometimes "LAB") which utilizes testing instruments to determine language disability that are far more comprehensive and educationally sophisticated than the rudimentary and unstandardized "picture test" used by District 14. The English version of the LAB consist of three levels of tests. Level I (Grades K-2) is scored on the basis of specified comparative oral responses to numerous pictoral representations. Level II (Grades 3-6) and Level III (Grades 7-12) consist of a battery of reading, writing, listening and oral tests taking approximately 70 minutes per child. The LAB was administered in May 1975 to all public school children in New York City who are spanish-surnamed, spanish-speaking, or whose primary language is not English and who are not fluent in English.

103. There has never been a valid assessment of the total number of children enrolled in the public and parochial schools of District 14 who are of limited English language ability and whose educational needs are of the type Title VII programs are intended to serve. No existing comprehensive, valid, objective and standardized testing instruments professionally designed to assess English language disabilities and the need for bilingual educational programs have been administered on an equal basis to both public and parochial school children in District 14.

Paragraphs 91, 95 and 97 are now renumbered paragraphs 110, 114 and 116 respectively and all are amended to read as follows:

Plaintiffs repeat and reallege paragraphs 70 through 103 as if such paragraphs were more fully alleged herein.

SEVENTH CLAIM FOR RELIEF

120. Plaintiffs repeat and reallege paragraphs 70 through 103 as if such paragraphs were more fully alleged herein.

121. District 14 defendants' continued targeting for participation in Title VII programs of a greater number of parochial school children than public school children despite their continued failure to determine the total number of children in need of bilingual education by equally administering to all children a comprehensive, valid, standardized and objective testing instrument professionally-designed to assess the need for bilingual education violates 20 U.S.C. §880b-3 and regulations promulgated thereunder and the First Amendment to the United States Constitution.

EIGHTH CLAIM FOR RELIEF

122. Section 880b-1(a)(4)(e) of the ESEA, as amended, provides:

> An application for a program of bilingual education shall be developed in consultation with parents of children of limited English-speaking ability, teachers, and where applicable, secondary school students in the areas to be served and assurances shall be given in the application that, after the application has been approved under this subchapter, the applicant will provide for participation by a committee composed of and selected by, such parents....

123. Defendants' failure to consult prior to the development of the application for the 1975-76 Title VII grant with parents of children of limited English-speaking ability, selected by Parents' Organizations, whose names were published in a newspaper of general circulation accessible to all members of the community violates §880b-1(a)(4)(e) and regulations promulgated thereunder.

DATED: BROOKLYN, NEW YORK
May 23, 1975

Respectfully submitted,

RICHARD S. PANEBIANCO, ESQ.
PATRICIA VERGATA, Of Counsel
IRA S. BEZOZA

WILLIAMSBURG NEIGHBORHOOD LEGAL SERVICES
260 Broadway

Brooklyn, New York 11211
Tel: 782-6195

KENNETH KIMERLING
HERBERT TEITELBAUM

PUERTO RICAN LEGAL DEFENSE & EDUCATION FUND, INC.
95 Madison Ave.
New York New Yor

Tel: 532-8470

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

PARENTS' COMMITTEE OF PUBLIC SCHOOL 19 et al.,

Plaintiffs

-against-

COMMUNITY SCHOOL BOARD OF COMMUNITY SCHOOL DISTRICT NO. 14, BD. of ED., CITY OF NEW YORK, and IRVING ANKER as CHANCELLOR

Defendants

- and -

TERREL H. BELL, Commissioner of the United States Office of Education

74 C 783

United States Courthouse
Brooklyn, New York

May 23, 1975
2:30 p.m.

Before

HONORABLE JACK B. WEINSTEIN

U.S.D.J.

SHELDON SILVERMAN
Acting Official Court Reporter

Appearances:

KENNETH KIMMERLING, Esq.
-and-
IRA S. BEZOZA, Esq.
-and-
PATRICIA VERGATA, Esq.

Attorneys for Plaintiffs

DAVID G. TRAGER, Esq.
United States Attorney for the
Eastern District of New York
By: CYRIL HYMAN, Esq.
Assistant U.S. Attorney

LEONARD KOERNER, Esq.
-and-
STEWART M. BERNSTEIN, Esq.
-and-
ROSE MARY CARROLL, Esq.
-and-
W. BERNARD RICHLAND, Esq.
-and-
MICHAEL CECERE, Esq.

Corporation Counsel

JOHN H. KEARNEY,
-and-
HENRY J. WALL

Amicus Curiae

THE COURT: Is there anybody here from the parochial school?

MR. BERNSTEIN: Your Honor, I represent Rabbi Naphtali Frankel, who is the unpaid principal of United Talmudical Academy. He's unable to be here today but I spoke to him late last night on the basis of concerns that were made with us with regard to this matter.

THE COURT: Did you get a copy of my order?

MR. BERNSTEIN: So did Rabbi Frankel.

THE COURT: What is his position?

MR. BERNSTEIN: Immediately thereafter we also got a copy of the tests that were proposed, which they haven't seen before. Having seen that Wednesday night, they could still not address themselves to it in substantive fashion because they didn't have any background to explain what the nature of the test was except for the printed material, but we have ascertained and we discussed the fact that parts of the test are given individually to students and parts of the test are given in larger groups.

The basic question that they had was how they could administer this test in any class or school in terms of personnel that they have, in

terms of the teachers. They don't have parallels--talking about any paraprofessionals, and they are also at a point now where they are about to give final examinations.

Their school term ends on the 19th, and it includes all of the classes and whatever other material they are giving by that date, so they can't--the biggest problem they have is logistical and financial ones in terms of how you separate a class at this point that's going to take the examinations.

THE COURT: What is the position, can they or can they not?

MR. BERNSTEIN: They feel that they can't give it.

THE COURT: Cannot.

MR. BERNSTEIN: Cannot give it at this time. If it was something that occurred not at this particular time of the year, it is conceivable.

THE COURT: Would they give it in the fall if it didn't interfere with the examinations?

MR. BERNSTEIN: The answer is yes, but it would depend upon what it would take to give. Again, each time a class meets, it meets only with its teacher and so forth. They would want to know more about how much time it takes for a class to have the

examination administered.

THE COURT: Anybody here from Catholic?

MR. KEARNEY: Our situation is very similar to what I already expressed. Frankly, we see no way that this kind of test could be proposed during the current school year. We have an identical situation. We're coming up to the final examinations which we have taken through the entire kindergarten through the eighth grade. We have requirements to comply with the programs that have been laid down by the New York State Department of Education. Our programming calls for certain things that have to be done within the next few weeks, which if not done would be non-compliance with the educational requirements of the State. We lack the personnel to carry on this kind of program, and as to whether it could be undertaken in the fall, approached from a viewpoint of cooperation with the court and with the entire program, we would like to study out the thing to see if there is a possibility of working out some way in which, given enough time, the test could be conducted as requested.

THE COURT: What's the position of the plaintiffs in view of these two submissions?

MR. KIMMERLING: I would appreciate having

some more school personnel here, and Mr. Kearney indicated to me before he wasn't quite sure the make-up of the schools, in the parochial school program. I'm not sure the requirements that he's speaking about in terms of New York State requirements, that is. I understand that everyone is going towards finals but I think we're three weeks from that time now; that these tests can be given and in a relatively short manner, certainly for the upper grades and for the lower grades, I think that there are ways in which, there might be a way in which we can work out compromises so we do a sampling of those children.

I think that to put it off to the fall, puts this case off again without resolution.

The issue is whether or not there has been a demonstrated need under Title 7.

I brought with me Dr. Jose Dones, who helped prepare part of the ASPIRA tests, and asked him to evaluate the language survey which the defendants used to prepare the Title 7 programs. He's prepared to testify to that's inadequate.

Given that inadequacy, which I think is not only demonstrated by the fact it's a 2-page test, but by the fact it has no objective scoring mechanism for determining whether or not a child has language

deficiencies. I believe on that basis alone, that the Title 7 programs are improperly composed, and because there isn't a valid way to determine the need. I think that it's to everyone's interest, including the parochial schools, who are benefiting from these programs, that there is a valid determination needed, for without the whole program may collapse.

I don't want to see that happen any more than anyone else, and I think it can be remedied with as little burden as we can. The Court in our last meeting yesterday expressed a desire to try to figure a way to sample the parochial schools so that we can reduce the burden. I think that there are statistically feasible ways in which we can sample parochial school children so that we can, on the basis of those samples, predict what the results would be for the parochial schools. That would certainly decrease the burden on everyone concerned. I think that we are talking in the range of ten percent of the children. On that basis I think that we can predict what the overall school bodies would do and the Catholic parochial schools and the Hebrew day schools. Then we would have, for the first time, objective results to establish what

proportional basis of the Title 7 funding project should be.

THE COURT: Is there anybody who wants the witness sworn, or will you take for purposes of this hearing the submission of counsel? I think that should be sufficient.

MS. CARROLL: I think his testimony is totally improper.

THE COURT: You don't want it; is that right?

MS. CARROLL: I had not completed what I wanted to say. That's the gist of it.

THE COURT: That's the only question I want at the moment. Does anybody want his testimony?

Then we won't take his testimony. I'll assume for the purposes of this discussion he would have testified as you indicated.

I didn't mean to cut you off if you want to say anything further.

MS. CARROLL: I reserve my remarks until the Court makes a statement.

THE COURT: In view of the fact that the tests were ordered for discovery purposes and that the children tested are in parochial schools, neither the children nor the parochial schools or any of their officers are parties to this action, the Court must

postpone the effective date of the order, and I do so stay the effective date of the order until September 30th, 1975.

In the interim, I request the representatives of the parochial schools and the plaintiffs and the City to try to work out in as applicable and effective a way as possible a method of testing the children, either on total school or sampling basis; on the assumption the original tests were developed and given in good faith, there should not be a very substantial difference in the total results. In fact, it may well be that the test now developed in connection with the ASPIRA suit might show a greater need for assistance in the parochial schools.

I therefore think it is useful for a parochial school to cooperate, particularly since they may be open to a suit on the First Amendment or other grounds if they don't cooperate, and because the entire program is undoubtedly important to all people in the district and everybody should, if possible, be satisfied as to the bona fides of the various people involved.

Are there any other questions in connection with this current issue?

MR. CECERE: If I might address the Court,

with the postponement of the implementation of the order to September, 1975, in the case of the ASPIRA v. the Board of Education, which we have discussed with you previously, the consent decree as entered into dated August 29, 1974, indicates that as of September 1975, the Board of Education of the City of New York must provide to all those children who are in need thereof a complete program of bilingual educational services.

THE COURT: This is in the public schools.

MR. CECERE: That's correct. Regardless from whence the funds come to support that program, the board as well as the school districts indicated they will and indeed intend to comply with the terms of that decree.

Insofar as the ultimate relief sought in this particular complaint, that is the children in the public schools of District 14 be provided with bilingual services to the extent consonant with their needs, that relief has already been afforded to these plaintiffs by virtue of the ASPIRA decree.

We submitted in our papers that District 14 intends to fully comply with the ASPIRA decree, so in terms of the relief plaintiffs seek on behalf of the public schools, it has been granted, and

I cannot see what the purpose administering the lab exam in the nonpublic schools would serve when the plaintiffs are in effect, or have been granted the relief they seek for the public schools already.

Certainly I'm not appearing here on behalf of the nonpublic schools. If anyone has a complaint with respect to service given under Title 7, in September, it might be the nonpublic schools, but it certainly won't be the public schools represented by the plaintiffs.

As I said, they have gotten that relief in the ASPIRA case. To that extent, administration of the tests would be totally improper and irrelevant.

I would ask in view of the submissions made here this morning by the nonpublic schools and in view of the relief that has been afforded the plaintiffs, that your Honor simply rescind the order.

THE COURT: I'm not going to do that. I still haven't received a supplemental complaint.

MR. KIMMERLING: We filed it.

THE COURT: It may well be if you look at it--I have not--you may change your view as to the relevancy of the tests. I'm not prepared on that issue before I read their current complaint.

MR. CECERE: If I might, with respect to that

complaint, might I specifically ask the opportunity to submit written papers in opposition to that supplementation?

THE COURT: You have twenty days.

MR. CECERE: In terms of the motion to supplement, I realize you indicated you would afford the plaintiffs five days within which to supplement.

THE COURT: Within that twenty days you can also move to strike it.

MR. CECERE: With respect to that, my brief reading of the supplemental complaint, which was handed to us outside by Miss Vergata, was again, the terms and provisions of next year's Title 7 grant are as the plaintiffs see them inaccurate and incorrect in that they again allegedly allocate an incorrect, inaccurate number of funds to the public schools.

Again I would point out to the Court that regardless of the truth or falsity of those accusations, the public schools must, under the ASPIRA decree be provided with bilingual services consonant with their needs.

Again I fail to see how the administration of the lab in the public schools aid in providing the plaintiff with that relief, since they have gotten

it already in the lawsuit.

THE COURT: Bring that to my attention in the written papers. I'm not sufficiently familiar with the ASPIRA decree. I haven't read the papers, so I can't respond intelligently to your comments.

MR. KIMMERLING: If I might respond briefly--

THE COURT: I don't see any point in it.

MR. KIMMERLING: I will hold my remarks to a later time.

THE COURT: I haven't examined any of the papers.

Anything further to discuss?

MR. KOERNER: There will be issued a written order. There's an application of the stay of the order to be heard by the Second Circuit on Tuesday morning, and unless they have this written order postponing the exam--

THE COURT: I haven't postponed. I have stayed it until my order, until September 30th, which means that any time you can have argument or discussion on what needs to be done in connection with the order. As it now stands, ten days after September 30th the test will be given. It's my hope fathers will be able to resolve this.

I don't know if there's going to be a suit

in September. All I'm doing is saying that nothing can be done in this strain, but we'll let it go until the fall and I hope you work it out. I have got to give you a deadline date, otherwise nothing is going to happen.

Anything further?

MS. VERGATA: If I might raise the point for the clarification of all parties, about the September test and its relation to the ongoing, the grant which will be at that time ongoing: is it the Commissioner's--does the Commissioner have the power under the regulations to adjust the grant after some funds have been disbursed?

MR. HYMAN: If there's an amendment by the local school board to reach a different target. The Commission has the power to act on that.

THE COURT: This court has the power to order the Commissioner and the local school board.

I really think you all ought to get together on this thing because, as I have said before, I would hate to see the result of all this, the cutting off of funds so nobody gets any help from them. It's an area where cooperation is usually more effective than antagonism.

MR. HYMAN: I respectfully disagree, but

the Court's last remark about the power of the Commissioner--

THE COURT: I understand.

MR. CECERE: Your Honor, just so I can be clear in my own mind, would the administration of the test be to assess the accuracy and validity of the needs, assessment figures submitted in connection with the 1975-76 grant?

THE COURT: As I understand what the supplemental complaint was to look like, that will be where we are.

MS. CARROLL: This is a stay of an order granted when there was no such supplemental complaint to the court, and as to which the Court stated that the test was to validate '74-75, Title 7--

THE COURT: I didn't say that. I made it quite clear when we had the argument we're talking about a '75-76 grant. You're making technical objection about the lack of power to make the order before the supplemental complaint was filed; I now make that order, once again, to the supplemental complaint filed. We'll all do a lot better if we don't get involved in technicalities of this kind when you try to resolve a real live situation. We have had a lot of fencing around in this case

for a year and a half, difficulties that the court shouldn't have been involved in, most of which have been handled on a local level by telephone call.

It seems to me that local school board and the plaintiffs ought to be on the same wave length here. I don't understand why we're constantly having problems of orders and everything else. Everything is opened up and if there is cooperation to solve a problem it will get solved. If you're going to fence around on technicalities, we're not going to get anyplace.

MS. CARROLL: The point is the local school board represents the entire community, whereas the plaintiffs represent a part of the community.

THE COURT: I understand. There should be no antagonism. As I understand it, the local school board, based on the affidavits and other information, is as interested in the plaintiffs in seeing the children in school, public school, Public School 19, get what they need. Why don't you get together? It seems to me a lot of the problems are just lack of communication. There's a lot of suspicion here that should have been expelled by adequate counseling. There's no point in fencing around with me. I can probably handle legal aspects as well as you can. What I need from you is some good faith attempt to resolve the problem.

Thank you very much. Have a pleasant summer.

STATE OF NEW YORK
COUNTY OF NEW YORK } ss.:

Jose E Pinel

being duly sworn, says that on the 19 day of June 19 75

at No 95 Madison ave in the Borough of Manh in New York City, he served a copy

of the annexed Joint appendix upon Kenneth Kimerling + Herbert Teitelbaum Esq.s

the Attorney for the Puerto Rican Legal Defense fund in the within entitled action, by delivering

a copy of the same to a person in charge of said Attorney's office, and leaving the same with him.

Sworn to before me, this 19
day of June 19 75

Jose E Pinel

Form 320-8M-123057(61)

YORK
W YORK } ss.:

Jose E Pinel

being duly sworn, says that on the 19 day of June 19 75

at No 260 B'way in the Borough of Brklyn in New York City, he served a copy

of the annexed Joint appendix upon Ira S Benzoza + Patricia Corzatte Esq.s

the Attorney for the Williamsburg Legal Services in the within entitled action, by delivering

a copy of the same to a person in charge of said Attorney's office, and leaving the same with him.

Sworn to before me, this 19
day of June 19 75

Jose E Pinel

Form 320-8M-123057(61)